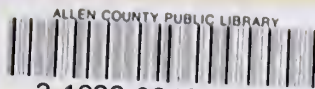




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WELLS COUNTY COURTHOUSE, BLUFFTON, INDIANA

INVENTORY OF THE COUNTY ARCHIVES
OF INDIANA

Prepared by
The Indiana Historical Records Survey
Division of Community Service Programs
Work Projects Administration

Sponsored by
Indiana Historical Bureau

No. 90. WELLS COUNTY
(BLUFFTON)

— — — — —
The Indiana Historical Records Survey
Indianapolis
1941

HISTORICAL RECORDS SURVEY PROJECTS

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George H. Field, Regional Director

John K. Jennings, State Administrator

The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Projects of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Wells County, is number 90 of the Indiana series.

The Historical Records Survey program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local governments, and which provide invaluable data for students of political, economic, and social history. Up to the present time approximately 1,400 publications have been issued by the Survey throughout the country. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Projects attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Projects, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The survey program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child. The survey operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER

Commissioner of Work Projects

PREFACE

The Historical Records Survey, one of the projects of the Division of Community Service Programs of the Work Projects Administration, was organized in January 1936 with Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project, but in September of that year the Survey became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a State project under the sponsorship of the Indiana Historical Bureau, and Roger A. Hurst was appointed State Supervisor of the survey in January 1940. Mr. Evans was succeeded as Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections have been or will be published. The Survey also prepares church directories, and has transcribed or microfilmed certain early county records as a measure of preservation.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement, indexing, nature of recording, size, and location. The various county bureaus—both active and defunct—are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

The field work of the survey in Wells County was performed at various times between June 1936 and July 1940. Final editorial review and supervision in the field were performed by Roy M. Bates and Bernard Liechay, and of the many

trips made to Wells County to check information used in this book. The final checks were made in September 1941 by Charles A. Ferry, an Assistant State Supervisor of the Survey.

Information for this volume was submitted to a State Editorial Staff, of which the department heads were: Edward Fletcher, record entries, who was assisted by Russel Fox; W. Davis Hamilton, legal research; William E. Chamberl, historical sketch; Howard Oates, proofreading and indexing; James Henry, typing; and William Spurgeon, illustrations. This volume was multigraphed by Survey personnel directed by William Deupree, who also prepared the housing essay and served as managing editor.

The survey is deeply indebted to many Wells County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred L. Schmitt, State Director, Community Service Programs Division, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Programs; and to many others who contributed time and effort. The Indiana staff received valuable advice and criticism from the central office of the Survey.

The *Inventory of the County Records of Indiana* will, when completed, consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Wells County volume is number 90. Four hundred and fifty copies of this inventory have been published and many have been distributed to libraries, universities, government offices, and other depositories over the State and the Nation. Copies will also be available in Wells County for persons, offices, or institutions having access to the county records or to study local government. Requests for information concerning this and other publications of the Survey in Indiana should be addressed to the Director, Indiana Historical Bureau, Senate Avenue 421 Old State Street, Indianapolis.

ROGER A. HAST

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

September 1941

WELLS COUNTY OFFICIALS

1941

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Manley Stinson

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Chauncey Wilson

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the presidents of municipal school boards*

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SCHOOLS

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COUNTY HEALTH OFFICER

Max Gitlin

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Everett Carnes

Herman Lesh

Lee Morrison

Luester Yager

Milo Lesh

Frank Babcock

Jesse Decker

David Schwartz

Herbert Smith

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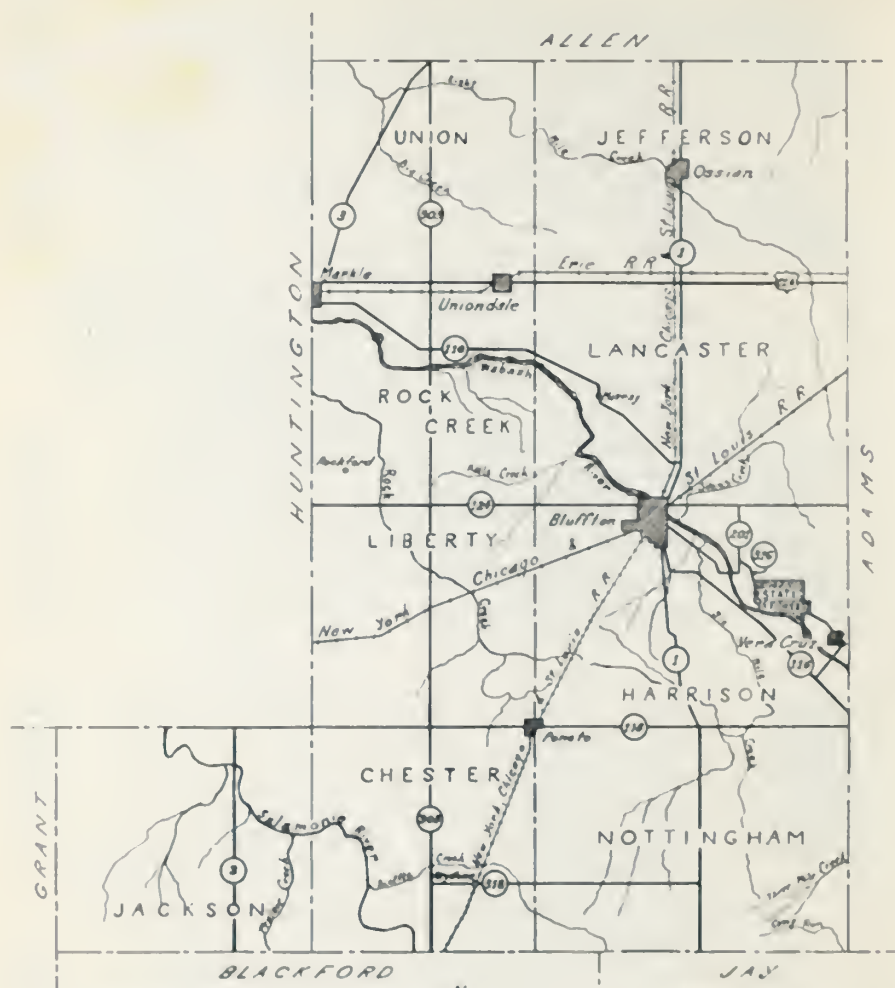
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MAP OF WELLS COUNTY



PART A. WELLS COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

PHYSICAL CHARACTERISTICS

Wells County, in northeastern Indiana, is in the fourth tier of counties from the northern line of the State and is one county removed from the Ohio line. The northern boundary line is approximately 12 miles south of the center of Fort Wayne. The county is shaped like a reversed L, with a projection 6 miles square at the southwestern corner. Without this projection it is a rectangle 24 miles in length and 14 miles in width. Wells county is bounded on the north by Allen County, on the east by Adams, on the south by Jay and Blackford, and on the west by Huntington and Grant. The area of the county is 372 square miles, or 238,080 acres.¹

The land is gently undulating, providing excellent drainage for a large portion of the county. The lowlands lying between the elevations have good natural or artificial drainage. The Wabash River passes through the central part of the county from the southeast to the northwest; the Salamonie River drains the southwestern portion; and the northeastern part is within the watershed of the St. Mary's River. Rock Creek, Six-Mile Creek, and Eight-Mile Creek form the principal secondary drainage system and are parts of the Wabash watershed.²

Once a great inland sea, of which only the Great Lakes remain, covered what is now Wells County, and the county's soil shows evidence of the deposits made by the waters. The strata dip is northward with an average of 8 feet to the mile. At Bluffton, in the central part of the county, the underlying strata below the surface, or drift, begins at a depth of 12 feet. Here water limestone is underlaid with Niagara limestone, crystal limestone, Clinton group, shale, slate, and

¹ George Pence and Nellie C. Armstrong. *Indiana Boundaries: Territory, State and County*, p. 853.

² *Commercial Atlas and Marketing Guide, 1929*, p. 170. *Biographical Memoirs of Wells County*, pp. 17, 18, hereinafter cited as *Biographical Memoirs*.

Trenton group in the order given. Good limestone adapted to building uses is found in outcroppings along river courses and near the surface. A terminal moraine is found in the northeastern part of the county and forms the dividing line between the watersheds of the Ohio River and Lake Erie. This moraine is an accumulation of sand and gravel with deposits of industrial clay.³

The elevation of the county averages 835 feet above sea level. In 1939, a typical year, extremes of temperature were 103 degrees Fahrenheit, high; and zero, low, with a mean annual temperature of 52 degrees. The annual precipitation was 34.05 inches.⁴

EARLY EXPLORATION AND CONQUEST

Before the white men came to what is now Indiana, Indians hunted in its forests and paddled their canoes on its streams. The food they obtained from hunting and fishing was supplemented by the products of a crude agriculture. The tribe most intimately identified with Indiana was the Miami, whose territorial claims as laid down by their great chief, Little Turtle, during the process of treaty making at Greenville, Ohio, in 1795, embraced the entire State.⁵ Because of either inability or unwillingness to enforce their claims, the Miami permitted other tribes to occupy lands within their territory. The principal tribes given this privilege were the Shawnee, Potawatomi, and Delaware, who a few years before the outbreak of the American Revolution obtained permission from the Miami to occupy the region between the Ohio and White Rivers. The Delaware were few in number and settled south of the present Wells County territory. The Potawatomi were in the northwestern part of the State. The Miami retained the remaining portions of Indiana for themselves and other members of the Miami Confederacy, consisting of the Twightwee, Wea, Piankashaw, and Shockley tribes.⁶

The first white people to come to Indiana were the French, who in the latter part of the seventeenth century.

³ *Ibid.*

⁴ U S Weather Bureau, *Climatological Data, Indiana Summary*, XLIV, no. 13

⁵ *American State Papers, Indian Affairs*, I, 570, 571.

⁶ F. W. Hodge, ed., *Handbook of American Indians North of Mexico*, I, 385. William Henry Smith, *History of the State of Indiana*, I, 33

made voyages of discovery and exploration from Canada into the Ohio Country, as the territory northwest of the Ohio River was known. These explorations were followed by trading and missionary activities among the natives of the region. Champlain and LaSalle were the two most famous of the explorers to pass through early Indiana. Maps made as a result of their explorations showed that either they or some of their company had been along the headwaters of the Wabash River and through the present confines of Wells County. The Jesuits and other explorers made frequent journeys through the same territory after LaSalle and Champlain had showed the way.⁷

In the first half of the eighteenth century three French trading posts were established within what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715;⁸ Ouiatanon, on the Wabash near the present site of Lafayette, about 1719 or 1720;⁹ and Vincennes, on the lower Wabash, sometime before March 1733.¹⁰

Early in the eighteenth century the English began to enter the Ohio Valley from the East. The conflicting claims of the two nations led to the French and Indian War, as a result of which France lost her possessions in the New World. During the American Revolution, George Rogers Clark conquered the Ohio Country, and in 1778 Virginia organized it as the "County of Illinois".¹¹ At the close of the Revolution, Massachusetts, New York, Connecticut, and Virginia, which laid claim to the area in whole or part, ceded their claims to the United States, and in 1787 Congress organized it as the Northwest Territory.¹² From this, five States and a part of the sixth were subsequently created. Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi River except a small portion of the present Michigan and a triangular area in the southeastern part of the present Indiana, was organized in 1800.¹³

⁷ Charles Elihu Slocum, ed., *Library of Monroe River Basin*, VI, 76, 78

⁸ M. M. Quaife, "Fort Wayne in 1730", *Indiana Historical Society Publications*, VII (1925)

201.

⁹ O. J. Craig, "Ouiatanon", *Indiana Historical Society Publications*, II (1921) 2.

¹⁰ P. C. Phillips, "Vincennes in Its Relation to French Colonial Policy," *Indiana Magazine of History*, XVII (1921), 223.

¹¹ Adam Shortt and A. G. Douglas, *Documents Relating to the Constitutional History of Canada, 1759-1791*, p. 426. William Waller Hening, *The Statutes at Large . . . of Virginia*, IX, 552

¹² Clarence E. Carter, ed., *The Territorial Papers of the United States*, I, 39-40.

¹³ *Annals of Congress*, 6th Congress, 1st Session, p. 1433.

In 1816, Indiana with approximately the present boundaries, was organized and admitted into the Union as a State.¹⁴

TERRITORIAL HISTORY

The Indian titles to lands in Indiana were extinguished as a result of 54 separate cessions, extending from the treaty of Greenville in 1795 to 1872, when the last Indian reserve was abolished.¹⁵ In treaties with the Miami and Delaware at St. Mary's Ohio, in 1818, the Delaware relinquished all claims to lands in Indiana, and the Miami relinquished all except certain lands set aside as their reservations. This relinquishment included all of the present Wells County.¹⁶

The making of some of these treaties was resented by several of the tribes, notably the Shawnee. Under the leadership of Tecumseh and the Prophet, they maintained that no tribe had a right to surrender Indian lands without the consent of all the tribes. The Shawnee attempt to organize an Indian confederacy to resist further encroachment by the whites collapsed as a result of the Indians' defeat in the battle of Tippecanoe, November 1811.¹⁷

The Federal Government in 1788 set aside the territory north of the Ohio River as the Northwest Territory. A territorial government of doubtful efficiency was principally under army control. In 1801 the western part of this territory became Indiana Territory and embraced the lands now occupied by Indiana, Illinois, Wisconsin, and parts of Michigan and Minnesota. The western part of this region became Illinois Territory upon its division in 1809, and the eastern half continued to be called the Indiana Territory and remained as such until statehood.¹⁸

¹⁴ For the enabling act, see *Ibid.*, 14th Congress, 1st Session, p. 1841; for the resolution admitting Indiana to the Union, see *Ibid.*, 14th Congress, 2d Session, p. 1348.

¹⁵ For complete list of sessions, together with a map showing their locations, see Smith, *op. cit.*, pp. 181-186. For text of treaties, see *U. S. Stat.*, VII, 49 *et seq.*, and Charles J. Kappler, *Indian Affairs, Laws, and Treaties*, published as *U. S. Senate Document No. 452*, 57th Congress, 1st Session, II, 30 *et seq.*

¹⁶ Kappler, *op. cit.*, II, 101, 102.

¹⁷ *Ibid.*, II, 170-174.

¹⁸ Louis B. Fubank and Dorothy L. Riker, eds., *The Laws of Indiana Territory, 1809-1816*,

William Henry Harrison, the first Governor of Indiana Territory, was appointed in 1800 and reappointed in 1803, 1806, and 1809. The first laws were enacted by the Governor and the judges, and the first territory assembly convened in 1805. The census of 1810 showed 5,725 free white male inhabitants of the age of 16 and over.¹⁹ At the time of statehood, that portion of the State in and around the present Wells County was unorganized and had few, if any settlers. In 1820, Randolph County, comprising a long strip along the Ohio State line, and Delaware County, lying west of Randolph, were organized. The line separating these two large counties passed north and south through the center of the present Wells County.²⁰ In 1823 Allen County was organized and the present territory of Wells County became a part of this new county.²¹

The first settler in what is now Wells County was Dr. Joseph Knox, who located in 1829 in the region later to become Lancaster Township. He was later joined by his sons-in-law, Vantrees and Warner. They left in 1832, panic-stricken by rumors of the Black Hawk War. In 1831, Allen and Isaac Norcross settled near the river below the present site of Bluffton. They, too, left in 1832, but Allen later returned and became a permanent resident of the county. Jacob Miller settled in what is now Rock Creek Township in 1832 and was soon after joined by his brother, Henry. They were the first permanent settlers of the present Wells County. The tide of immigration began about 1833 and new settlers poured in from other counties in Indiana, and from Eastern and Southern States. The first white child born within the present limits of Wells County was Elizabeth, daughter of Mr. and Mrs. Henry Miller. The baby was born in 1835.²²

CREATION OF THE COUNTY

An act of the Indiana General Assembly on February 7, 1835 authorized the division of much of the unorganized territory of northern Indiana, together with sections of Delaware and Randolph Counties, into a group of new counties, one of which was Wells. On February 2, 1837 the Wells County

¹⁹ *Ibid.*, pp. 6, 7.

²⁰ Pence and Armstrong, *op. cit.*, p. 174.

²¹ *Ibid.*, p. 162.

²² *Biographical and Historical Record of Adams and Wells Counties, Indiana*, pp. 562-63, hereinafter cited as *Biographical and Historical Record*.

Organization Act was passed, and embraced the territory described as "commencing at the northwest corner of Adams County, thence west with the southern boundary of Allen County to the southwest corner of the same, thence south with the eastern boundary of Huntington County to the southeast corner of the same, thence west to the northwest corner of Grant County, thence south six miles to the township line dividing townships 24 and 25, thence east to the southeast corner of Adams County, thence north with the western boundary of Adams County to the place of beginning".²³

The county boundaries have remained intact, although several attempts were made to change them. In the Legislature of 1840-41 Blackford County made a vain attempt to enlarge its boundaries by annexing part of Wells County and repeated the effort in the session of 1848-49. A portion of Adams County sought to be annexed to Wells County in the 1845-46 Legislature, but failed in the attempt.²⁴

The name given the county was in tribute to Captain William H. Wells, a victim of the Fort Dearborn massacre of 1812.²⁵

ORGANIZATION OF WELLS COUNTY

The first election of the new county was held in June 1837 when Solomon Johnson, James Scott, and R. C. Bennett, Sr. were elected county commissioners. Only 12 votes were cast in the election. The Governor had previously appointed David Bennett as sheriff and Bowen Hale as clerk of the circuit court, to hold office until the regular election. At this election several nonresidents were permitted to vote, because they had announced their intentions to move into the county at a later date. On July 21, 1837 the board of county commissioners held its first session. Adanah Hall was appointed treasurer; W. H. Parmelee, agent of the three percent fund; David Whitman, assessor and tax collector; John Casebeer, surveyor; and Thomas T. Smith, school commissioner.²⁶

Wells County was assigned to the eighth judicial circuit, of which Charles W. Ewing was presiding judge and John Swett

²³ Acts 1831-35 (general), ch. 25, sec. 2, 1836-37 (general), ch. 6, sec. 1

²⁴ Pence and Armstrong, *op. cit.*, pp. 77, 82, 87

²⁵ Henry Gannett, *The Origin of Certain Place Names in the United States*, U. S. Department of the Interior Bulletin, no. 248, p. 20

²⁶ *Biographical Memoirs*, p. 21.

and J. R. Greer were associate judges. The first session of court in the new county was held at the home of Robert C. Bennett in October 1837. The first criminal case heard by this court was on a charge of betting brought in 1838 against Judge Greer of the court. He was fined \$1.00. The first probate judge was William Wallace, elected in 1839.²⁷

The first commission named by the General Assembly to select a seat of county business failed to function and on January 20, 1838 the Legislature appointed a second commission composed of Zachariah Smith of Adams County, Christopher Hanna of Jay, Champion Helvey of Huntington, William Kiser of Randolph, and John Rogers of Grant. All except Smith met on the first Monday in the following March. Bluffton and Murray were candidates for selection as the county seat. The four commissioners were evenly divided in their choice and a deadlock existed at the end of the day's session. Bluffton advocates held a council at the end of the session and decided to send for Zachariah Smith, the absent member of the commission, who lived in Adams County and was known to favor Bluffton. Daniel Miller was selected to make the ride. Deep snow covered the ground, and there were no roads. Changing mounts at various settlements, Miller finally reached Smith's home at three o'clock in the morning. On the return journey, the two men pressed the horses to the limit and, after a 70-mile ride, Miller reached Bluffton with Smith before the morning session of the commission convened. The tie was broken and Bluffton became the new county seat. Land was donated to the new county by Abraham Studabaker and Robert C. Bennett with \$270 in cash to obtain the selection of Bluffton, which has since continued to be the county seat.²⁸

The two original townships of Harrison and Rock Creek were formed at the first session of the board of commissioners in July 1837. Jackson Township was established September 4, 1837; Jefferson, March 3, 1840; Nottingham, January 4, 1841; Chester, Liberty, and Lancaster, March 1, 1841; and Union, June 7, 1847. No changes have been made since the formation of Union Township.²⁹

EARLY COUNTY FINANCE

The financial problems that confronted Wells County

²⁷ Leander J. Monks, *Courts and Lawyers of Indiana*, III, 1120.

²⁸ *Ibid.*, III, 1123.

²⁹ Commissioners' Record, vol. A, p. 2, see entry 2. *Biographical Memoirs*, p. 25.

were similar to those faced by other new counties in the State. Distant markets and almost impassable roads prevented the sale of the products of the farms with profit to the residents of the new county. Barter prevailed and little cash was in circulation within the county. Few property owners had money with which to pay their taxes, and many assessments became delinquent. Promissory notes were sometimes accepted, but promises could not pay the operating expenses of the county. Much of the land was tax exempt, since lands purchased from the Federal Government were free from taxation for 5 years after entry. But gradually more land became taxable, the construction of better roads opened new markets, and money became more plentiful. With these changes, the county's financial situation improved.⁸⁰

County revenue was obtained from a direct property tax, poll tax and license fees, receipts from which were used for operation of the county government; fines and penalties; sale of Congressional township lands; income from the surplus revenue fund, devoted to educational purposes; income from the three percent fund, used for road construction and maintenance; and receipts from the sale of county land and lots, used for construction of public buildings and the county library maintenance.⁸¹ The first tax levy in 1837 was 18 cents, and it was increased to 25 cents per \$100 assessed valuation in 1838, with a 50 cents poll tax added, but this apparently did not increase the revenue to any great extent. The county treasurer reported tax and license receipts of \$1,419.40 for the year ending November 1839.⁸²

DEVELOPMENT OF AGRICULTURE

The greater portion of the county is covered by a rich clay loam, underlaid by from 20 to 100 feet of clay subsoil. This forms some of the best farm land in the State. The land in the county is almost entirely free from rocks and stones. A rolling ridge crosses the county from the southeast to the northwest, and provides excellent grazing land for stock raising and dairying. Native trees found in Wells County include oak, hickory, ash, beech, walnut, maple, elm,

⁸⁰ *Biographical Mem. Irs.*, p. 20

⁸¹ Rev. L. 1831, ch. 59, sec. 9, ch. 82, sec. 4; ch. 90, secs. 7-10, 16. Acts 1836-37 (general), ch. 4; ch. 2, subch. 2, sec. 2, 7, ch. 35, sec. 1, ch. 81

⁸² Commissioners' Record, vol. A, pp. 18, 64, see entry 2

and cottonwood.³³ In the valleys between the hills and in lowlands, and in other sections of the county, numerous marshes were originally found. These have been drained, and provide some of the most fertile lands in Indiana. The first drainage ditch was the Burns Ditch in Chester Township authorized in September 1876 by the board of county commissioners.³⁴ By 1918 open ditch mileage had reached 328 miles and 244 miles of tile drain had been installed. All this was done by petition and through the board of county commissioners. Many miles of private drains had also been constructed.³⁵

The early settlers were handicapped by inadequate transportation facilities and Fort Wayne, reached only by a road nearly impassible, was the only outlet for the county's products. Agitation for railroads and better highways began about 1850. For another decade it continued, and finally the markets of the world were opened up to agricultural Wells County.³⁶ Heightened interest in agriculture led to the formation of the Wells County Agricultural Society in 1853 and this organization held several fairs previous to the Civil War, when it ceased its activities. It was reorganized in 1867 and conducted fairs for 15 years before it finally was disbanded. The Patrons of Husbandry organized in the county in 1870 and became a popular medium for farm-life activities. The Shorthorn Breeders' Association was organized in 1886 and at the outset was active in developing the breed of cattle.³⁷

Agriculture is the principal industry of the county, with 222,940 acres of the county's area devoted to farming in 1939. The average size of the farms is 98.3 acres. Only one farm is operated by other than white management. The total valuation of all county farms, with improvements, was \$15,743,578 in 1940, an increase of nearly one million dollars since the census of 1930. Seven hundred and thirty five, or 33 percent, of the farms of the county were operated by tenants in 1939.³⁸

Corn is the leading product, with 2,654,013 bushels, an

³³ *Biographical Memoirs*, p. 23.

³⁴ Commissioners' Record, vol. F, p. 313, see entry 2 John W. Tyndell and O. E. Lesh, eds., *Standard History of Adams and Wells Counties, Indiana*, II, 266.

³⁵ *Ibid.*, p. 272.

³⁶ *Biographical Memoirs*, p. 45.

³⁷ *Biographical and Historical Record*, pp. 602, 602.

³⁸ U. S. Bureau of the Census, *Sixteenth Census of the United States, 1940, Agriculture, Indiana*, pp. 16, 17, 25.

average of 45 bushels per acre, produced in 1939. That year 218,083 bushels of wheat were produced, an average of 9 bushels per acre. Oats, potatoes, sweet potatoes, and sugar beets are productive crops. The 1940 census showed 19,838 cattle, 12,514 milk cows, 40,101 hogs, 10,992 sheep, and 168,095 chickens in the county. Milk produced during 1939 was 6,018,040 gallons and eggs 941,089 dozens.³⁹

In 1939, 1,608 acres of farm land produced 12,234 tons of sugar beets, much of which was processed by the sugar factory at Decatur in Adams County. Other crops include apples, pears, plums, and cherries produced for local consumption, although only two commercial orchards now operate in the county.⁴⁰

INDUSTRY AND COMMERCE

The first industrial concerns to operate in the county were sawmills, gristmills, and flour mills. Two or more of these activities were frequently combined in one mill, where flour was ground in season, corn was turned into meal on Saturdays, and the remaining time was devoted to producing lumber. The first flour mill was built by Jesse Gearhard at Murray in 1837, and became one of the largest mills in the region. Gearhard was the founder of the town of Murray, the county's oldest settlement, where the first store and postoffice was operated by Bowen Hale.⁴¹ The Batson mill on the Salamonie River, the McConkey mill near Keystone, and the Barber mill at Rockford were others of this period.⁴²

The discovery of oil and natural gas in the 1890's gave impetus to industry for a few years, but the supply of both has so dwindled that they are no longer industrial factors. A few small oil producing wells are in the southern part of the county. Some gas is found in sufficient quantity to supply the owners of the wells.⁴³ Excellent sand and gravel for construction work are found in the county and two limestone quarries are now in operation.⁴⁴

³⁹ *Ibid.*, pp. 41, 45.

⁴⁰ Indiana State Planning Board, Preliminary Survey of County Planning Problems in Indiana Counties, 1935-36, Wells County section, pp. 13, 14. (typewritten manuscript in Indiana State Library).

⁴¹ *Biographical Memoirs*, p. 19.

⁴² Information obtained from Ezekiel Boxell and Mrs. M. M. Shadley of Montpelier, Indiana, and W. C. Bradley of Rockford, Indiana, (May 12, 1936), by Arline Dickinson

⁴³ Indiana State Planning Board, *op. cit.*, p. 12.

⁴⁴ *Ibid.*, p. 11

Five manufacturing concerns are located in Wells County, producing condensed milk, gloves, pianos, pumps and lawn mowers, and machines for cutting and wrapping bread. They employed approximately 240 workers in 1930, when the industrial output of the county was estimated at \$1,878,100.⁴⁵

Wells County in 1940 had 221 retail stores with 511 employees and payrolls of \$388,000. Annual retail sales amounted to \$4,648,000. Over one-half the county's retail business was done in Bluffton that year.⁴⁶ The county had 52 wholesale establishments in 1940, with 166 employees and an annual payroll of \$160,000. Annual wholesale business of the county totaled \$3,865,000.⁴⁷

TRANSPORTATION

The greatest problem confronting the first board of county commissioners after their organization in 1837 was that of adequate roads. Hardly had the organization been completed when petitions from all sections of the county were presented demanding opening of new roads and improvement of the old. Handicapped by lack of finances, the commissioners were unable to make much progress in road building. They made their first project the improvement of a road established by the Legislature running from Portland to Huntington, passing through Wells County from southeast to northwest.⁴⁸ Fort Wayne was the principal market for the county's products and the road leading thereto was of great importance to Wells County residents. Agitation for a plank road leading to Fort Wayne was begun in 1860, and shortly thereafter the road was built, and toll charged for its use. The new road was not kept in proper repairs and soon the planks were worn out and the road became rough and full of bogs. Four horses were required to pull a light hack one way each day between Fort Wayne and Bluffton, and the assistance of passengers was often necessary to pass over some of the worst places.⁴⁹

The county's first railroad connected Bluffton with the

⁴⁵ *Ibid.*, p. 12.

⁴⁶ U. S. Bureau of the Census, *Sixteenth Census of the United States, 1940, Retail Trade, Indiana*, p. 17.

⁴⁷ U. S. Bureau of the Census, *Sixteenth Census of the United States, 1940, Wholesale Trade, Indiana*, p. 15.

⁴⁸ Commissioners' Record, vol. A. p. 6, *et seq.*, see entry 2.

⁴⁹ *Biographical Memoirs*, p. 33.

markets of Fort Wayne and was completed in 1859 after many financial difficulties. The road was known as the "Junction Railroad" and was built possible by a donation of \$100,000 by the citizens of Wells County. The arrival of the first train on November 10, 1859, was the occasion for a pretentious celebration in Bluffton.¹ The second railroad traversed the central portion of the county from east to west, crossing the "Junction Line" at Bluffton. It was completed in 1872. In the meantime the first railroad had been extended both north and south. These two railroads are now a part of the Nickel Plate system. The third road passed through the northern part of the county east and west and was completed in 1883. This road is now a part of the Erie system.² The electric railway from Maude to Bluffton was completed in 1903 and extended to Fort Wayne a few years later. It was a part of the Indianapolis to Fort Wayne traction line until 1940 when it was discontinued.³

Increased population and state aid gradually brought improvement to the highways of the county, and at present (1941) good roads reach every farm in the county, and all are improved with the exception of 2 1/2 miles. U. S. Highway 24 passes through the northern part of the county from east to west,⁴ and nine State routes, with a capped mileage of 136.33 in 1940, traverse the county.⁵

SCHOOLS, LIBRARIES AND JOUENALISM

The first schools in the county were typical of the schools of the State in that period. Log schoolhouses, oiled paper windows, crude heating facilities, split log benches and tables, patchwork floors and poor ventilation were characteristic. The Wells County school system began in 1837 with a small log schoolhouse in Harrison Township, southeast of Bluffton on Six-Mile Creek. Jesse McGrew was the first teacher. The first school in Bluffton was taught by Ann Cohen in 1838 in a log schoolhouse on the north side

¹ *Wells County*, p. 47.

² *Wells County*, p. 47.

³ *Wells County*, p. 47.

⁴ *Wells County*, p. 47.

⁵ *Wells County*, p. 47.

⁶ *Wells County*, p. 47.

⁷ *Wells County*, p. 47.

of the Henry Thomas lot on Scott Street. The county's first high school was organized by P. A. Allen in 1881 in Bluffton.⁵⁵

The growth of the county's educational system has been gradual, keeping pace with the increase in population and the demands for greater educational opportunities. By 1936 all townships had consolidated schools and high schools. The Bluffton School City had a high school and four elementary schools. Because of adequate local financial support, the schools of Wells County have never received any State school aid.⁵⁶

Wells County in 1855 was one of the beneficiaries of a fund donated by William McClure of New Harmony for the establishing of libraries in many counties of the State. This fund, added to the county library fund (10 percent of money received from the sale of county lots), provided a nucleus for an excellent county library. However, in 1855 the county library act was repealed by the General Assembly and the books were divided among the various townships.⁵⁷ Bluffton then started a library for its townspeople, and for 25 years the book collection was housed in a furniture store. In 1881 this library was consolidated with the school library and placed in one of the school buildings. Nine years later a city tax for library purposes was levied and has continued to the present. In 1904 the Carnegie Library fund donated \$13,000 for the construction of the present library building. The townships of the county have become contributing members of this library, and it is available for use by residents of the entire county.⁵⁸

The first newspaper in Wells County was the *Republican Bugle*, founded in 1847 by Thomas Smith. Upon the death of Mr. Smith in 1849, the paper was succeeded by the *Bluffton Banner*, with Samuel Lupton as editor. The *Banner* was published weekly until 1901, when it became a daily. In 1888, it consolidated with the *News* and became the *News-Banner*, which is now (1941) the only daily newspaper in the county.

⁵⁵ *Biographical Memoirs*, p. 50.

⁵⁶ Indiana State Planning Board, *op. cit.*, p. 10.

⁵⁷ *Biographical Memoirs*, p. 65. Commissioners' Record, vol. B, p. 477, see entry 2.

⁵⁸ *Bluffton Public Library, 1902-1927*, pp. 5, 6, 16. Commissioners' Record, vol. B, p.

477, see entry 2. Indiana, Yearbook, 1940, p. 720.

John L. Wilson and Michael Karns established the *People's Press* in 1855, and after numerous suspensions and changes in name, the *Press* became the *Wells County Chronicle* in 1869. The *News-Banner* was formed in 1888 by a consolidation of the *Banner* and the *News*. The *Journal* at Ossian was established in 1916. Numerous other newspapers existed for a short time and passed away. Today the *News-Banner*, a Bluffton afternoon publication, and the *Ossian Journal*, issued weekly, serve the residents of the county.⁵⁹

WELFARE AND RECREATION

The plan of welfare in general use throughout the State in the early days of Wells County provided for the care of the needy by individuals who were paid from the county treasury for this service. Physicians were paid by the year to administer to the sick poor. The first record of the county's "farming out" of a needy person was in 1849 when the care of a pauper child was awarded to a citizen of the county for \$1.00 per week. In 1850 an adult pauper was "farmed out" for \$36 per year.⁶⁰ The ability of the pauper to work was a factor in determining the amount demanded for his or her care.

The board of county commissioners provided all care for the needy until 1897 when direct relief became a duty of the township trustees, with the commissioners providing county institutional facilities.⁶¹ Poor relief has never been the major problem in Wells County that it has been in some other parts of the State. During the recent depression, a maximum of 519 persons received either direct relief or work relief.⁶²

A board of children's guardians functioned from 1901 to 1936, and was responsible for the care of orphan children. This duty was later transferred to the county department of public welfare, which also assumed several other welfare functions.⁶³ The county also maintains an infirmary and

⁵⁹ *Biographical and Historical Record*, pp. 598-600. J. Percy H. Johnson, ed., *Directory of Newspapers and Periodicals, 1841*, pp. 237, 284.

⁶⁰ Commissioners' Record, vol. B, pp. 79, 116, pp. entry 2.

⁶¹ Act 1877, ch. 124.

⁶² Philip M. Hauser, *Workers on Relief in the United States in March 1936*, I, 57.

⁶³ See the essay entitled, "County Department of Public Welfare."

orphanage four miles southeast of Bluffton, and a county hospital in Bluffton.⁶⁴

Bluffton has two small parks, both having athletic fields, and one a wading pool. Three miles southeast of Bluffton is a modern swimming pool. A country club and golf course is located north of the county seat. The Bluffton Community Building provides social and athletic facilities,⁶⁵ and outdoor recreation opportunities are at the Wells County State Forest, a 926-acre tract along the Wabash River southeast of the county seat.⁶⁶

RELIGION

A Baptist clergyman, Rev. Elijah Sutton, preached the first sermon in Wells County in 1838 at the home of David Bennett, across the river from Bluffton. In the same year, Rev. George W. Bowers, a Methodist minister, conducted the first religious services in Bluffton under a large oak tree on the banks of the Wabash at the foot of Johnson Street. The two clergymen organized congregations of their respective denominations at these services. Rev. Robert Tisdale was the first pastor of the Baptist congregation, and Mr. Bowers served the Methodists in the same capacity.⁶⁷

Not far behind were the activities of the other denominations, for in the autumn of the same year—1838—the first Church of Christ, called locally the Six-Mile Church, was organized by Rev. Hallett Barber, who served as its first pastor. Twenty years later, the same denomination organized in Murray, and at Bluffton in 1858.⁶⁸

Meanwhile, the Pleasant Ridge Presbyterian Church had been organized in 1840 in Adam Hatfield's new barn and Rev. John Russ was the first pastor. The Presbyterian Church in the county seat was organized in 1844, also by Mr. Russ. The St. Paul Lutheran Church was started in 1854 by Rev. A. S. Dechant, the Mt. Horeb Church in 1859 with Rev. H. Wells as pastor, and the St. Marks Church in

⁶⁴ Indiana State Planning Board, *op. cit.*, pp. 17, 18.

⁶⁵ *Ibid.*, pp. 9, 18, 19.

⁶⁶ Indiana, *ibid.*, p. 225.

⁶⁷ *Biographical and Historical Sketches*, pp. 66, 617.

⁶⁸ *Ibid.*, p. 618.

1883 by Rev. J. C. Jacoby. The Evangelical Association formed a society and erected their Salem Church in 1854 with Father Weithaup as pastor.⁶⁹

The first Catholic mass in Wells County was conducted at Bluffton in 1872 by Rev. Theodore Wilken. Three years later, five families of the denomination held services in a building at the corner of Williams and Cherry Streets in Bluffton and formed the Catholic Church. The Seventh-day Adventists organized a congregation at Rockford in 1887 with Elder William Covert in charge,⁷⁰ but it was not until 1935 that this congregation organized a church in Bluffton. The Church of the Nazarene was organized in the county seat in 1916, with Rev. Clyde E. Green as first pastor.⁷¹

POPULATION TRENDS

The first Federal census taken in Wells County in 1840 showed a population of 1,822 persons. During the next decade the number of residents increased to 6,152, a gain of more than 300 percent. In 1860, the census reported 10,843 persons in the county. Population increased to 13,585 in 1870, but by 1880 had reached 10,442. In 1890 the population was 21,514, and in 1900 the all-time high of 23,449 was reached.

Every census since 1900 has shown a gradual decrease in population, with the exception of 1940 which gave the county a small increase. The 1910 report was 22,418; 1920, 20,509; 1930, 18,411; but in 1940 there was an increase to 19,099.⁷²

During the period of decreased population, every township in the county showed losses with the exception of Harrison, in which Bluffton is located. The county's gain of 688, shown in the 1940 census, is about equally divided between Bluffton and the rural townships. In 1928 the H. C. Bay and Company, piano manufacturers of Bluffton,

⁶⁹ *HM*, p. 617

⁷⁰ *HM*, p. 638

⁷¹ *Bluffton County*, September 25, 1937

⁷² U. S. Bureau of the Census, Department of the Interior, *U. S. Population Bulletin*, Indiana, First Series, 1948, by Patricia Connor of the Statistical Table, Population, First Series, p. 12.

employing 1,100 persons, discontinued business."³ The next Federal census—in 1930—indicated a loss of 317 in the population of the county seat. In 1940 a gain of 343 brought Bluffton's population to 5,417, the largest within its history. The rural sections of the county showed a gain of 345 in 1940, but this gain was less than the losses during previous years, leaving a net loss of nearly 4,000 for the rural sections of the county during the past 20 years.^{7 4}

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi corporation, organized as a political subdivision of the State, solely for governmental purposes. It is a "municipal corporation" and a "municipality" within the meaning of several statutes using those terms. It is an instrumentality of government, exercising the powers delegated by the State and acting for the State. County officers are agents of the State. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the State Constitution, the General Assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

^{7 3} Information obtained from Frank C. Thompson, former president of Bluffton Chamber of Commerce, (September 22, 1941), by William E. Chambers.

^{7 4} U. S. Bureau of the Census, *Population Bulletin, Indiana, First Series*, 1930, p. 23; *Sixteenth Census of the United States, 1940, Population, First Series*, p. 12.

¹ *Gavin v. Board of County Comrs.*, 104 Ind. 201, 3 N. E. 846 (1885); *State ex rel. Workman v. Goldchait*, 172 Ind. 210, 87 N. E. 103 (1906); *Applegate v. Pettijohn*, 205 Ind. 122, 125, 185 N. E. 911 (1933); *McDermott v. Board of County Comrs.*, 60 Ind. App. 209, 110 N. E. 237 (1915); *Buck v. Indiana Constr. Co.*, 79 Ind. App. 329, 138 N. E. 356 (1922).

"Municipal corporation." Acts 1913, ch. 237, sec. 2 (repealed by Acts 1937, ch. 119, sec. 11). Acts 1929; Burns 60-1102; Baldwin 113-22. Acts 1911; Burns 61-106; Baldwin 138-3-6. Acts 1937; Burns, 1941 suppl., 61-526, 61-622 (d), 61-628; Baldwin, 1937 suppl., 1-849-2, 1-844-43 (d), 1-857-2.

"Municipality." Acts 1907; Burns 60-228; Baldwin 137-70. Acts 1917; Burns 60-120; Baldwin 138-80. Acts 1927; Burns 60-236; Baldwin 140-81. Acts 1937; Burns, 1941 suppl., 61-509 (a); Baldwin, 1937 suppl., 1-859-4 (a).

Before the adoption of the Constitution of 1851, the Legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.² The General Assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³ and sometimes held void as being in conflict with these constitutional provisions.⁴ Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.⁵ The counties of Clark⁶ and Dearborn⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,⁸ Gibson,⁹

"Offices created by the Legislature can be abolished by the Legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the Legislative will." *Rogers v. Calumet National Bank*, 213 Ind. 576, 585, 12 N. E. (2d) 261 (1936).

² Const. 1851, art. 4, secs. 22, 23.

³ *State ex rel. Hargrave v. Reitz*, 62 Ind. 159 (1878); *Campbell v. Indianapolis*, 155 Ind. 186, 57 N. E. 920 (1900); *Bullock v. Robison*, 176 Ind. 198, 93 N. E. 998 (1911); *Wayne Twp. v. Brown*, 205 Ind. 137, 186 N. E. 841 (1921); *Myers v. Windley*, 247 Ind. 637, 194 N. E. 351 (1925); *Groves v. Board of County Comrs.*, 209 Ind. 371, 199 N. E. 137 (1920); *Crowe v. Board of County Comrs.*, 210 Ind. 401, 3 N. E. (2d) 76 (1936); *Board of County Comrs. v. Crowe*, 214 Ind. 446, 14 N. E. (2d) 907 (1938).

⁴ *Campbell v. Indianapolis*, 155 Ind. 186, 57 N. E. 920 (1900); *Rushville v. Hayes*, 162 Ind. 193, 70 N. E. 174 (1904); *Bumb v. Evansville*, 168 Ind. 272, 80 N. E. 625 (1907); *Kraus v. Lehman*, 170 Ind. 408, 81 N. E. 714 (1908); *Bullock v. Robison*, 176 Ind. 198, 93 N. E. 998 (1911); *Boberg v. Harlem*, 194 Ind. 310, 14 N. E. 775 (1921); *Heffelfinger v. Ft. Wayne*, 196 Ind. 689, 149 N. E. 515 (1925); *Hickler v. Center*, 106 Ind. 376, 187 N. E. 878 (1920); *Crowe v. Board of County Comrs.*, 210 Ind. 401, 3 N. E. (2d) 76 (1936).

⁵ William Henry Smith, *St. Clair Papers* II, 166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County*, pp. 21, 14.

⁶ Pence and Armstrong, *op. cit.*, p. 26.

⁷ *Ibid.*, p. 30.

⁸ Acts 1850, ch. 6.

⁹ Acts 1813, ch. 23.

Harrison.¹⁰ Jackson,¹¹ Jefferson,¹² Orange,¹³ Perry,¹⁴ Posey,¹⁵ Switzerland,¹⁶ Warrick,¹⁷ Washington,¹⁸ and Wayne¹⁹ were created by special acts of the General Assembly of Indiana Territory. These fifteen counties are all mentioned in the Constitution of 1816.²⁰ The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."²¹ The Constitution of 1816 further provided that the Legislature, "at the time they lay off a new county," should provide certain funds for a public library.²² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."²³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."²⁴ The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;²⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

¹⁰ Acts 1808, ch. 1.

¹¹ Acts 1815, ch. 1.

¹² Acts 1810, ch. 2.

¹³ Acts 1815, ch. 12.

¹⁴ Acts 1814, ch. 7.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, ch. 9.

¹⁷ Acts 1813, ch. 23.

¹⁸ Acts 1813-14, ch. 10.

¹⁹ Acts 1810, ch. 1.

²⁰ Const. 18'6, art. 12, sec. 9.

²¹ *Ibid.*, art. 11, sec. 12.

²² *Ibid.*, art. 9, sec. 5.

²³ Const. 1851, art. 15, sec. 7.

²⁴ *Ibid.*, art. 4, sec. 2.

²⁵ *Ibid.*, schedule, par. 15.

The Legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the board of commissioners in such counties.²⁶ No new counties have been created since the enactment of this law.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Wells County in 1837,²⁷ the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county:

OFFICERS

- Appraiser (1841-72)²⁸
- Auditor (1841 to date)²⁹
- Clerk of the circuit court (1837 to date)³⁰
- Commissioner of three percent fund (1837-43)³¹
- Coroner (1837 to date)³²
- County agent (1837-52)³³
- County agricultural agent (1914 to date)³⁴
- County assessor (1837-52, 1872-75, 1891 to date)³⁵
- County attendance officer (1913 to date)³⁶
- County director of public welfare (1936 to date)³⁷
- County health commissioner (1909-38)³⁸
- County health officer (1881-1909, 1938 to date)³⁹
- County highway superintendent (1913-33)⁴⁰
- County highway supervisor (1933 to date)⁴¹

²⁶ Acts 1861, Burns 26 301 to 26 310; Baldwin 50 4 to 50 53.

²⁷ Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836 27 (general), ch. 16, sec. 1.

²⁸ See the essay entitled "County Assessor."

²⁹ See the essay entitled "Auditor."

³⁰ See the essay entitled "Clerk of the Circuit Court."

³¹ See the essay entitled "Commissioner of Three Percent Fund (1837-43) "

³² See the essay entitled "Coroner."

³³ See the essay entitled "County Agent (1837 52)."

³⁴ See the essay entitled "County Agricultural Agent."

³⁵ See the essay entitled "County Assessor."

³⁶ See the essay entitled "County Attendance Officer."

³⁷ See the essay entitled "County Department of Public Welfare "

³⁸ See the essay entitled "County Health Officer "

³⁹ *Ibid.*

⁴⁰ See the essay entitled "County Highway Supervisor "

⁴¹ *Ibid.*

County poundkeeper (1837-53)⁴²
 County school commissioner (1837-49)⁴³
 County school examiner (1837-73)⁴⁴
 County superintendent (1873-1927)⁴⁵
 County superintendent of schools (1927 to date)⁴⁶
 District attorney (1853-73)⁴⁷
 District road supervisors (1837-79)⁴⁸
 Jury commissioners (1881 to date)⁴⁹
 Probation officer (1906 to date)⁵⁰
 Prosecuting attorney (1837 to date)⁵¹
 Public health nurse (1937 to date)⁵²
 Recorder (1837 to date)⁵³
 Registration clerks (1911-17)⁵⁴
 Registration inspector (1911-17)⁵⁵
 Registration officer (1889-92, 1933 to date)⁵⁶
 Sheriff (1837 to date)⁵⁷
 Surplus revenue agent (1837-43)⁵⁸
 Surveyor (1837 to date)⁵⁹
 Tax collector (1837-41)⁶⁰
 Treasurer (1837 to date)⁶¹
 Truant officer (1897-1913)⁶²

⁴² See the essay entitled "County Poundkeeper (1837-53)."

⁴³ See the essay entitled "County School Commissioner (1837-49)."

⁴⁴ See the essay entitled "County Superintendent of Schools."

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ See the essay entitled "District Attorney (1853-73)."

⁴⁸ See the essay entitled "County Highway Supervisor."

⁴⁹ See the essay entitled "Jury Commissioners."

⁵⁰ See the essay entitled "Probation Officer."

⁵¹ See the essay entitled "Prosecuting Attorney."

⁵² See the essay entitled "Public Health Nurse."

⁵³ See the essay entitled "Recorder."

⁵⁴ See the essay entitled "Registration Officer."

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ See the essay entitled "Sheriff."

⁵⁸ See the essay entitled "Surplus Revenue Agent (1837-43)."

⁵⁹ See the essay entitled "Surveyor."

⁶⁰ See the essay entitled "Tax Collector (1837-41)."

⁶¹ See the essay entitled "Treasurer."

⁶² See the essay entitled "County Attendance Officer."

Trustee of public seminary (1837-53)⁶³.

BOARDS

Board of children's guardians (1901-36)⁶⁴
 Board of commissioners (1837 to date)⁶⁵
 Board of equalization (1837-90)⁶⁶
 Board of finance (1907 to date)⁶⁷
 Board of primary election commissioners (1907 to date)⁶⁸
 Board of registration commissioners (1917-19)⁶⁹
 Board of turnpike directors (1879-1913)⁷⁰
 Commission of public records (1939 to date)⁷¹
 County board of canvassers (1843 to date)⁷²
 County board of education (1873 to date)⁷³
 County board of election commissioners (1889 to date)⁷⁴
 County board of health (1881-1909)⁷⁵
 County board of public welfare (1936 to date)⁷⁶
 County board of review (1891 to date)⁷⁷
 County board of tax adjustment (1932 to date)⁷⁸
 County council (1899 to date)⁷⁹
 County department of public welfare (1936 to date)⁸⁰
 County hospital board (1918 to date)⁸¹
 County library board (1937 to date)⁸²
 County school fund board (1935 to date)⁸³

⁶³ See the essay entitled "Trustee of Public Seminary (1837-53)."

⁶⁴ See the essay entitled "Board of Children's Guardians (1901-36)."

⁶⁵ See the essay entitled "Board of Commissioners."

⁶⁶ See the essay entitled "County Board of Review."

⁶⁷ See the essay entitled "Board of Finance."

⁶⁸ See the essay entitled "Board of Primary Election Commissioners."

⁶⁹ See the essay entitled "Registration Officer."

⁷⁰ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁷¹ See the essay entitled "Commission of Public Records."

⁷² See the essay entitled "County Board of Canvassers."

⁷³ See the essay entitled "County Board of Education."

⁷⁴ See the essay entitled "County Board of Election Commissioners."

⁷⁵ See the essay entitled "County Health Officer."

⁷⁶ See the essay entitled "County Department of Public Welfare."

⁷⁷ See the essay entitled "County Board of Review."

⁷⁸ See the essay entitled "County Board of Tax Adjustment."

⁷⁹ See the essay entitled "County Council."

⁸⁰ See the essay entitled "County Department of Public Welfare."

⁸¹ See the essay entitled "County Hospital Board."

⁸² See the essay entitled "County Library Board."

⁸³ See the essay entitled "County School Fund Board."

Precinct registration board (1911-17, 1919-27)⁸⁴
 Township board of registry (1867-69)⁸⁵

COURTS

Circuit court (1837 to date)⁸⁶
 Court of common pleas (1853-73)⁸⁷
 Court of conciliation (1853-65)⁸⁸
 Probate court (1837-53)⁸⁹

In the early days of the county few public officials were needed. The sheriff preserved order generally, took part in conducting elections, and executed the process and orders of the courts. The clerk of the circuit court acted as ministerial officer of the courts, served as clerk of the board doing county business, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector (instead of the treasurer) from 1837 until 1841. County business was transacted by the board of commissioners (composed of three county commissioners) from 1837 until 1899, and by the board of commissioners (composed of three county commissioners) and the county council (composed of seven councilmen) since 1899. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for poor relief. The county had two courts from 1837 until 1853, three from 1853 until 1865, two from 1865 until 1873, and has had one from 1873 to the present time. As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the

⁸⁴ See the entry entitled "Registration Officer."

⁸⁵ 117.

⁸⁶ See the entry entitled "Circuit Court."

⁸⁷ See the entry entitled "Court of Common Pleas (1853-73)."

⁸⁸ See the entry entitled "Court of Conciliation (1853-65)."

⁸⁹ See the entry entitled "Probate Court (1837-53)."

adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.⁹⁰

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.⁹¹ The board cannot bind the county by any contract which is beyond the scope of its powers.⁹² While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.⁹³

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract

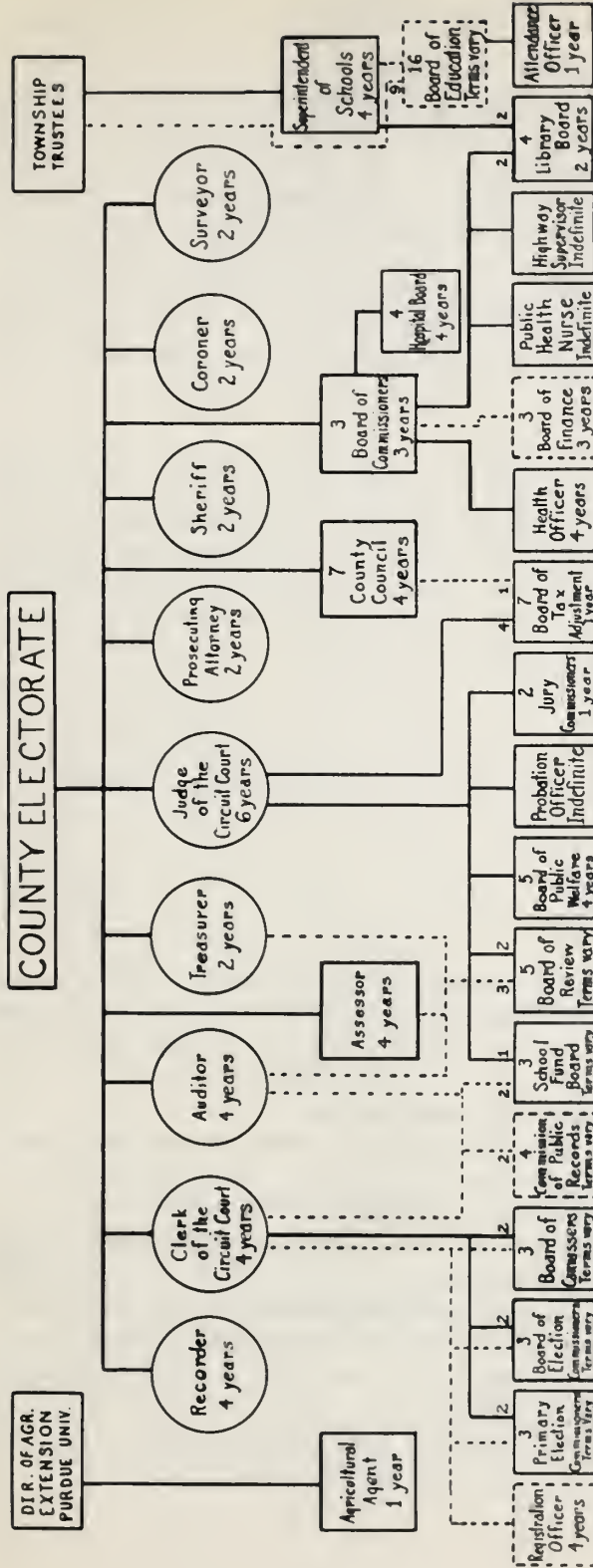
⁹⁰ Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

⁹¹ Acts 1899, 1903, 1933, Burns 26-526, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1937; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. Op Atty. Gen. 1939, p. 98.

⁹² *Hight v Board of County Comrs.*, 68 Ind. 575, 577 (1879); *Driftwood Valley Turnpike Co. v. Board of County Comrs.*, 72 Ind. 226 (1880); *Board of County Comrs. v. Bradford*, 72 Ind. 455 (1880).

⁹³ *McCabe v Board of County Comrs.*, 46 Ind. 380 (1874); *Board of County Comrs. v. Riltter*, 90 Ind. 362 (1883).



Commission of Public Records also includes: the judge of the circuit court, and the president of the board of commissioners.
 Board of Tax Adjustment also includes: the Mayor of Bluffton or his appointee and a member of the county board of education.
 Board of Education also includes: the president of the school board in each city and town in the county (6).
 Bluffton Library Board also includes: Bluffton City Library Board members.

CHART OF WELLS COUNTY GOVERNMENTAL ORGANIZATION, 1941

Circles - constitutional offices.
 Squares - statutory officers.
 Figures - number of members and term of office.
 Solid lines - elected or appointed.
 Broken lines - ex officio.

to the "lowest responsible bidder," or, in some instances, the "lowest and best bidder."⁹⁴ The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and readvertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.⁹⁵

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.⁹⁶ A contract employing an attorney is an exception to this rule.⁹⁷

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.⁹⁸ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.⁹⁹ If the allowance of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.¹ If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the State on the relation of

⁹⁴ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.*, 178 Ind. 221, 58 N. E. 33 (1912); *Eigenmann v. Board of County Comrs.*, 53 Ind. App. 1, 101 N. E. 38 (1913).

⁹⁵ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

⁹⁶ *Board of County Comrs. v. Shields*, 120 Ind. 6, 29 N. E. 385 (1891); *Jessup v. Hinchman*, 77 Ind. App. 460, 133 N. E. 853 (1922).

⁹⁷ *Board of County Comrs. v. Taylor*, 123 Ind. 148, 23 N. E. 752 (1890).

⁹⁸ *Rea Stat.* 1852; Burns 26-605; Baldwin 5220. *Shillings v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

⁹⁹ Acts 1879 (Spec. Sess.), 1885; Burns 26-520; Baldwin 5275. *Bass Foundry & Mach. Works v. Board of County Comrs.*, 115 Ind. 234, 17 N. E. 593 (1888). *Board of County Comrs. v. Fitchner*, 129 Ind. 56, 29 N. E. 32 (1891). *Mueller v. Board of County Comrs.*, 73 Ind. App. 196, 127 N. E. 1 (1900).

¹⁰⁰ Acts 1897; Burns 26-811; Baldwin 5,64. *Sudbury v. Board of County Comrs.*, 157 Ind. 446, 62 N. E. 45 (1901).

the board of commissioners or the officer making disbursement. If such suit is not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the State on his own relation.¹⁰¹

The board of commissioners, as relator, may sue, in the name of the State, on official bonds to recover county funds.¹⁰² The auditor, as relator, may sue, in the name of the State, to recover money owing to the county.¹⁰³

The treasurer sues in his name, as treasurer, to collect property taxes.¹⁰⁴ Suit to collect inheritance taxes is brought in the name of the county.¹⁰⁵ After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.¹⁰⁶

Land needed by the county for public buildings,¹⁰⁷ highways, bridges, culverts,¹⁰⁸ drainage, sewers,¹⁰⁹ or airports¹¹⁰ may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically requires, or any duty resulting from his office or trust.¹¹¹ For example, mandamus lies to compel: The

¹⁰¹ Acts 1899; Burns 26-545; Baldwin 5410.

¹⁰² Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 13. *Graham v. State ex rel. Board of County Comrs.*, 66 Ind. 356 (1879); *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

¹⁰³ 1 Rev. Stat. 1852; Burns 49-307; Baldwin 5431. *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

¹⁰⁴ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹⁰⁵ Acts 1931; Burns 6-2415; Baldwin 15953.

¹⁰⁶ Acts 1919; Burns 64-2812; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.*, 204 Ind. 87, 183 N. E. 404 (1922); *Board of County Comrs. v. Millikan*, 207 Ind. 142, 190 N. E. 185 (1934).

¹⁰⁷ Acts 1899; Burns 26-2101; Baldwin 5109.

¹⁰⁸ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1925 suppl., 8861-1.

¹⁰⁹ Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

¹¹⁰ Acts 1920 (Spec. Sess.); Burns 14-402; Baldwin 4022.

¹¹¹ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

auditor to draw warrants on the county treasury;¹¹² the board of commissioners to take action on claims that have been properly presented,¹¹³ to approve official bonds,¹¹⁴ and to repair or rebuild bridges;¹¹⁵ and the county council to make appropriations.¹¹⁶

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;¹¹⁷ illegal issuance of licenses;¹¹⁸ doing of illegal acts that would increase taxation;¹¹⁹ payment of illegal claims;¹²⁰ and making an illegal contract.¹²¹

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.¹²²

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.¹²³ No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.¹²⁴

Mandamus does not lie to compel county treasurer to pay warrant where it is not alleged that the warrant was presented to him and payment was refused. *Finerty v. State ex rel. Greenwald*, 215 Ind. 346, 19 N. E. (2d) 846 (1939).

¹¹² *Gill v. State ex rel. Board of County Comrs.*, 72 Ind. 266 (1880).

¹¹³ *Board of County Comrs. v. State ex rel. Reed*, 179 Ind. 614, 102 N. E. 97 (1913).

¹¹⁴ *State ex rel. Taylor v. Board of County Comrs.*, 124 Ind. 554, 25 N. E. 10 (1890).

¹¹⁵ *State ex rel. Roundtree v. Board of County Comrs.*, 60 Ind. 478 (1881).

¹¹⁶ *Shelby County Council v. State ex rel. School City of Shelbyville*, 155 Ind. 216, 57 N. E. 712 (1900).

¹¹⁷ *Hobbs v. Board of County Comrs.*, 103 Ind. 575, 3 N. E. 263 (1885).

¹¹⁸ *Marriage license. Sweigart v. State*, 213 Ind. 147, 12 N. E. (2d) 134 (1938).

¹¹⁹ *State ex rel. Davis v. Board of County Comrs.*, 165 Ind. 262, 74 N. E. 1091 (1905).

¹²⁰ *Warren Agri. Joint Stock Co. v. Barr*, 55 Ind. 30 (1876). But see *Bently v. Board of County Comrs.*, 102 Ind. App. 523, 200 N. E. 499 (1936).

¹²¹ *Farris v. Jones*, 112 Ind. 498, 14 N. E. 484 (1887).

¹²² *State ex rel. Board of County Comrs. v. Board of County Comrs.*, 170 Ind. 595, 608, 85 N. E. 517 (1908).

¹²³ *Acts 1899; Burns 26-527; Baldwin 591. Board of County Comrs. v. Pike Civil Twp.*, 168 Ind. 535, 81 N. E. 489 (1907).

¹²⁴ *Acts 1941, ch. 17. Acts 1899, 1941, Burns, 1941 suppl., 26 528; Baldwin, 1941 suppl., 5392.*

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,¹²⁵ including suits to collect taxes and tax penalties¹²⁶ and suits against officers or on their bonds.¹²⁷ The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.¹²⁸

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county; since commerce and titles to property are directly affected thereby.¹²⁹ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,¹³⁰ and the intangible tax thereon (if any) must be paid.¹³¹ No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹³²

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

¹²⁵ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹²⁶ Acts 1931; Burns 6-2115; Baldwin 15953. Acts 1837; Burns, 1941 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-63, 64-719, 64-1319, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15777, 15817. Acts 1932 (Spec. Sess.); Burns 61-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1-41 suppl., 61-268, Baldwin, 1917 suppl., 16909.

¹²⁷ Acts 1917; Burns 60-217; Baldwin 13878.

¹²⁸ Acts 1932; Burns 49-2685; Baldwin 7250.

¹²⁹ Acts 1905; Burns 1941 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-113; Baldwin 14003. 1 Rev. Stat. 1852, Acts 1853, 1853, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-100; Baldwin 14671. Acts 1877; Burns 56-716; Baldwin 993.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John, 213 Ind. 171, 18 N. E. (2d) 127 (1945).

¹³⁰ Rev. L. 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 49-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-2212; Baldwin 14006. Acts 1877; Burns, 1911 suppl., 51-507; Baldwin, 1935 suppl., 13237-7. 1 Rev. Stat. 1852, Acts 1879, Burns 56-121 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14678, 14677, 14679, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

¹³¹ Acts 1933; Burns 61-929; Baldwin 15927.

¹³² 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 5478. Acts 1879; Burns 61-1409; Baldwin 15746.

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are included in the essays entitled "Recorder" and "Clerk of the Circuit Court."

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the General Assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the State Bureau of Motor Vehicles),¹³³ but has no system of registering titles to other personal property.

JUDICIARY

Wells Circuit Court has been in active existence ever since 1837. The following courts formerly existed in Wells County: Probate court (1837-53); court of common pleas (1853-73); and court of conciliation (1853-65).¹³⁴

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity; divorce and alimony proceedings; declaratory judgment proceedings; juvenile matters; insanity inquests and commitments; election contests; proceedings for removal of county officers; quo warranto proceedings; proceedings for mandate, prohibition, and injunction; proceedings to quiet title to real estate; partition proceedings; ne exeat proceedings; habeas corpus proceedings; proceedings to commit persons to hospitals operated by Indiana University; eminent domain proceedings; proceedings to establish drainage districts and assessments; proceedings for change of names of persons; adoption proceedings; receiverships; bastardy proceedings; guardianships; probate of wills; and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters. In connection with its jurisdiction to

¹³³ Acts 1921, 1931, 1935, 1939; Burns, 1941 suppl., 47-301, Baldwin, 1939 suppl., 11128.

¹³⁴ See the essays entitled "Circuit Court," "Probate Court (1837-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

administer decedents' estates, the court administers certain provisions of the inheritance tax laws.¹³⁵

The circuit court has appellate jurisdiction to review decisions of justices of the peace; city courts; board of commissioners; board of commissioners and county council acting jointly concerning condemnation of schoolhouses; board of review fixing value of property for taxation; taxing authorities determining that property is taxable; board of public works or board of park commissioners of any city in the county (or city council performing such functions); and other inferior tribunals when no express direction is given as to the court to which the appeal lies.¹³⁶

In each township in Wells County there is a justice of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession; exclusive original jurisdiction of misdemeanors under the State laws punishable only by fine not exceeding \$3; original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the State laws punishable by fine only, with power to assess fines only up to \$25; and jurisdiction as a committing magistrate in criminal cases under the State laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is coextensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Wells County has had justices of the peace since its organization in 1837.¹³⁷

Arranged according to subject matter, the courts existing in Wells County from 1837 to date have had original jurisdiction as follows:— *Civil actions at law*: (a) circuit court (1837 to date); (b) probate court (1837-53); (c) court of common pleas (1853-73); *criminal cases*: (a) circuit court (1837 to date); (b) court of common pleas (1853-73); *chancery cases*: (a) circuit court (1837 to date); (b) probate court (1837-53); (c) court of common pleas (1853-73); *probate matters, settlement of decedents' estates*,

¹³⁵ See the essay entitled "Circuit Court."

¹³⁶ *Ibid.*

¹³⁷ Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. Rev. Stat. 1833, ch. 7 (second act), sec. 1; ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, ch. 1, secs. 1-3, p. 449; ch. 6, secs. 1-9, pp. 497, 498. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

and guardianship: (a) circuit court (1873 to date); (b) probate court (1837-53); (c) court of common pleas (1853-73); *juvenile matters*: (a) circuit court (1875 to date); (h) court of common pleas (1867-73); *conciliation*: court of conciliation (1853-65); *naturalization proceedings*: (a) circuit court (1837 to date); (b) court of common pleas (1853-73).¹³⁸

Decisions of the circuit court were reviewable by the Supreme Court of Indiana until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana. Decisions of the probate court (1837-53) and the court of common pleas (1853-73) were reviewable by the Wells Circuit Court or the Supreme Court of Indiana. Proceedings in the court of conciliation could not be appealed to another court.¹³⁹

In 1937 the Supreme Court of Indiana said: "Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal view, and even though it shocks our sense of justice and fairness."¹⁴⁰

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk. He served as clerk of the probate court (1837-53) and court of common pleas (1853-73). The court of conciliation (1853-65) had no clerk.¹⁴¹

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court. He performed similar duties for the probate court (1837-53), court of common pleas (1853-73), and court of conciliation (1853-65).¹⁴² Constables perform similar duties for the justices of the peace.¹⁴³ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his

¹³⁸ See the essays entitled "Circuit Court," "Probate Court (1837-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

¹³⁹ *Id.*

¹⁴⁰ State v. Brown, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

¹⁴¹ See the essays entitled "Circuit Court," "Probate Court (1837-53)," "Court of Common Pleas (1853-73)," and "Court of Conciliation (1853-65)."

¹⁴² *Id.* See the essay entitled "Sheriff."

¹⁴³ 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

deputy perform these duties.¹⁴⁴ The coroner performs these duties of the sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.¹⁴⁵ If the coroner is absent or incapacitated, the judge appoints an officer to perform these duties of the sheriff.¹⁴⁶ The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.¹⁴⁷ The probation officer (appointed by the judge of the circuit court for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹⁴⁸ The county director of public welfare performs duties of the probation officer when so directed by the circuit court.¹⁴⁹ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand or stenotypy, thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹⁵⁰ Two jury commissioners (annually appointed by the circuit judge) prepare lists of names from which the grand juries and petit juries are drawn.¹⁵¹ The court page

¹⁴⁴ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 252; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1925; Burns, 1921 suppl., 12457; Baldwin, 1925 suppl., 1256. Acts 1935; Burns 9 1501, 9-1810; Baldwin 2236, 2240. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p. 312.

¹⁴⁵ 2 Rev. Stat. 1852; Burns 49 254; Baldwin 5437.

¹⁴⁶ 2 Rev. Stat. 1852; Burns 4 322, 4-323; Baldwin 1411, 1412.

¹⁴⁷ 2 Rev. Stat. 1852; Burns 49 2501; Baldwin 5456. *Freed v. Martin* Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938). *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 100 (1938). See the essay entitled "Prosecuting Attorney."

¹⁴⁸ Acts 1903, ch. 23, sec. 2. Acts 1923, ch. 218. Acts 1941; Burns, 1941 suppl., 9-2848, 9-2849; Baldwin, 1941 suppl., 1758-20, 1758-21.

¹⁴⁹ Acts. 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120, Baldwin, 1937 suppl., 11078-21. See the essay entitled "County Department of Public Welfare."

¹⁵⁰ Acts 1881 (Spec. Sess.), ch. 83. Acts 1899, 1927, Burns 4-3501 to 4-3511; Baldwin 1268 to 1292, 1298, 1298-1, 1756, 1297-1, 199, 1900. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁵¹ Acts 1881 (Spec. Sess.), 1899, 1915; Burns 4-3301, 4-3302; Baldwin 1266, 1270. Acts 1931 (Spec. Sess.), 1935; Burns, 1941 suppl., 4-104; Baldwin, 1939 suppl., 1267. *Crickmore v. State*, 213 Ind. 585, 12 N. E. (2d) 266 (1938). *Johnson v. State*, 213 Ind. 639, 14 N. E. (2d) 96 (1938); *Foreman v. State*, 214 Ind. 79, 14 N. E. (2d) 556 (1938).

(appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹⁵²

Formerly juries were used in coroner's inquests, but such juries were abolished in 1879. The coroner acts in a nonjudicial capacity when holding inquests, and his findings are not binding upon any person.¹⁵³

LAW ENFORCEMENT

The Constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdiction,¹⁵⁴ and that all criminal prosecutions shall be carried on "in the name, and by the authority, of the State."¹⁵⁵

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,¹⁵⁶ the sheriff,¹⁵⁷ or the coroner,¹⁵⁸ cooperating with one another and with State and Federal bureaus of law enforcement;¹⁵⁹ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.¹⁶⁰

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.¹⁶¹

¹⁵² *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). Op. Atty. Gen. 1939, p. 312.

¹⁵³ See the essay entitled "Coroner."

¹⁵⁴ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

¹⁵⁵ Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

¹⁵⁶ 2 Rev. Stat. 1852; Burns 49-2503, Baldwin 5459. *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1928).

¹⁵⁷ 2 Rev. Stat. 1852, Burns 49-2802 Baldwin 5494.

¹⁵⁸ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935, Burns, 1941 suppl. 49-2904; Baldwin, 1935 suppl., 5439.

¹⁵⁹ Acts 1917, Burns 9-2603 to 9-2610; Baldwin 15253 to 15265, 15357 to 15261.

¹⁶⁰ Acts 1905, 1927, Burns 9-806, 9-901 9-908, Baldwin 2102 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." *Maddox v. State*, 213 Ind. 537, 12 N. E. (2d) 947 (1928).

¹⁶¹ Acts 1866; Burns 9-826, Baldwin 2122.

The grand jury consists of six members,¹⁶² at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.¹⁶³

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.¹⁶⁴ He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder.¹⁶⁵

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner. As law enforcement officers, they have identical powers and duties;¹⁶⁶ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.¹⁶⁷ Warrants for arrest may also be

¹⁶² Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁶³ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 323, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

Endorsement by prosecuting attorney. *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

¹⁶⁴ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹⁶⁵ Acts 1905, 1927; Burns 9-903; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this later procedure the Legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Free v. Martin* Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁶⁶ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

¹⁶⁷ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

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issued by the coroner, when the results of an inquest indicate that a felony was committed.¹⁶⁸ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; an arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.¹⁶⁹ A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the State.¹⁷⁰

In the Constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.¹⁷¹ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard in person and by counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.¹⁷² No person can be put in jeopardy twice for the same offense. In a criminal prosecution no person can be compelled to testify against himself.¹⁷³ A person arrested or confined in jail must not be treated with unnecessary rigor.¹⁷⁴ Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.¹⁷⁵ Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.¹⁷⁶ The penal laws of Indiana are founded on the principles of

¹⁶⁸ 2 Rev. Stat. 1852; Burns 49:2314; Baldwin 5448.

¹⁶⁹ *Doering v. State*, 49 Ind. 56, 19 Am. Rep. 669 (1874); *Hart v. State*, 195 Ind. 384, 145 N. E. 449 (1924).

¹⁷⁰ Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

¹⁷¹ Const. 1851, art. 1, sec. 12.

Discharge for delay in prosecution Acts 1905; Burns 9-1403, 9-1404; Baldwin 2239, 2240.

Sullivan v. State, 215 Ind. 343, 19 N. E. (2d) 739 (1959).

¹⁷² Const. 1851, art. 1, sec. 13.

¹⁷³ *Ibid.*, sec. 14.

¹⁷⁴ *Ibid.*, sec. 15.

¹⁷⁵ *Ibid.*, sec. 16.

¹⁷⁶ *Ibid.*, sec. 17.

reformation, and not of vindictive justice.¹⁷⁷ In all criminal cases the jury has the right to determine both the law and the facts.¹⁷⁸ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.¹⁷⁹ No conviction can "work corruption of blood or forfeiture of estate."¹⁸⁰ The Governor has the power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.¹⁸¹

The county jail is maintained by the county,¹⁸² the sheriff being responsible for its management.¹⁸³ Inspection or investigation is made by the grand jury at the beginning of each regular session,¹⁸⁴ and by the board of commissioners every 3 months.¹⁸⁵

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.¹⁸⁶ Before 1899 the board of commissioners performed the duties now performed by the county council.¹⁸⁷

No money can be drawn from the county treasury not in pursuance of appropriation therefor,¹⁸⁸ except in the following instances: (a) Money belonging to the State and commanded by law to be paid into the State treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which

¹⁷⁷ *Id.*, sec. 18.

¹⁷⁸ *Id.*, sec. 19.

¹⁷⁹ *Id.*, sec. 27.

¹⁸⁰ *Id.*, sec. 30.

¹⁸¹ *Id.*, art. 5, sec. 17.

¹⁸² 1 Rev. Stat. 1892, Burns 13-10-1; Baldwin 12448.

¹⁸³ 1 Rev. Stat. 1892; Burns 13-1-1; Baldwin 1463.

¹⁸⁴ 1 Rev. Stat. 1892; Burns 13-10-2; Baldwin 1460.

¹⁸⁵ Acts 1899; Burns 12-10-1; Baldwin 1460.

¹⁸⁶ Acts 1899, Burns 6-515; Baldwin 5579. *Thirty-ninth Annual Conference of State Tax*

Board, pp. 8-14.

¹⁸⁷ 1 Rev. Stat. 1892, ch. 6, sec. 1; ch. 20, sec. 1, 16, 17, 18, 21, 22.

¹⁸⁸ Acts 1899; Burns 25-515; Baldwin 5579.

has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (c) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the State or Federal Governments for welfare assistance or public work projects;¹⁹⁰ and (h) salaries fixed by law.¹⁹⁰

Before the Thursday following the first Monday in August each year, the various officia's of the county (including township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the State during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the first Tuesday after the first Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as are deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least 2 separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.¹⁹¹

¹⁹⁰ Acts 1909, ch. 10, § 10, and 1911, ch. 10, § 10, and 1912, ch. 10, § 10.

¹⁹¹ *Black v. State ex rel. Board*, 29 Ind. 2, 30, 1 N. E. 381 (1881).

Salaries fixed by statute or contract for salaried officers. *See* Art. 6, § 10, p. 212.

¹⁹¹ *Act 1909, ch. 10, § 10, and 1911, ch. 10, § 10, and 1912, ch. 10, § 10.* *See* *Act 1909, ch. 10, § 10.*

Act 1909, ch. 10, § 10, and 1911, ch. 10, § 10, and 1912, ch. 10, § 10. *See* *Act 1909, ch. 10, § 10.*

The statutory provision requiring an ordinance for appropriation to be read on 2 separate days is mandatory, and no failure to comply therewith renders the ordinance invalid. *See* *Van Der Veer v. State ex rel. Board*, 29 Ind. 2, 30, 1 N. E. 381 (1881).

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on 2 separate days before passage.¹⁹² Such additional appropriations must be approved by the State Board of Tax Commissioners.¹⁹³

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.¹⁹⁴ It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.¹⁹⁵

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.¹⁹⁶

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹⁹² Acts 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.*, 204 Ind. 484, 184 N. E. 780 (1933).

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are in Acts 1937; Burns, 1941 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1941 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100. *O'Rourke v. Board of County Comrs.*, 215 Ind. 195, 18 N. E. (2d) 380 (1939).

¹⁹³ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁹⁴ Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

¹⁹⁵ Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1925; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁹⁶ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Op. Atty. Gen.* 1939, p. 312.

TAXATION

The power of taxation is inherent in the State, and is a legislative power limited only by the provisions of the Constitution.¹⁹⁷ The Constitution provides that "The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."¹⁹⁸ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.¹⁹⁹ Exemptions are discussed hereinafter. In construing tax statutes, a liberal rule of interpretation must be indulged in to aid the taxing power of the State.²⁰⁰

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

Put lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. *Acts 1899; Burns 26-527; Baldwin 5961. Board of County Commrs. v. McGregor*, 171 Ind. 64, 87 N. E. 1 (1909).

¹⁹⁷ *State ex rel. Goodman v. Haler*, 149 Ind. 292, 47 N. E. 665 (1897); *Dunn v. Indianapolis*, 208 Ind. 60, 156 N. E. 513 (1925); *Miles v. Department of Treasury*, 209 Ind. 172, 199 N. E. 372 (1935); *State ex rel. Jackson v. Middleton*, 215 Ind. 219, 19 N. E. (2d) 470 (1929). *Thirty-eighth Annual Conference of State Tax Board*, pp. 75-89.

¹⁹⁸ Const., 1851, art. 10, sec. 1.

The legislative power to exempt from taxation extends only to property "for municipal, educational, literary, scientific, religious or charitable purposes." *Stark v. Kreyling*, 207 Ind. 128, 183 N. E. 680 (1934). *Op. Atty. Gen.* 1939, p. 62.

¹⁹⁹ *State Bd. of Tax Commrs. v. Jackson*, 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540 (1931); *Miles v. Department of Treasury*, 209 Ind. 172, 199 N. E. 372 (1935); *Davis v. Sexlon*, 210 Ind. 138, 200 N. E. 233 (1936).

²⁰⁰ *Department of Treasury v. Dietlen*, 215 Ind. 528, 21 N. E. (2d) 137 (1929).

In each township having a population not exceeding 5,000 (all townships except Harrison), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²⁰¹

A poll tax is assessed on every male inhabitant of the State between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.²⁰² Poll tax exemptions are allowed to volunteer firemen²⁰³ and former soldiers and sailors receiving service-connected disability compensation.²⁰⁴ Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.²⁰⁵ The auditor certifies to the city officials the number of taxable polls therein,²⁰⁶ and adds omitted polls to the tax duplicate.²⁰⁷ Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by State law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁰⁸

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the State Board of Tax Commissioners.²⁰⁹

²⁰¹ Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. Op. Atty. Gen. 1929, p. 243.

²⁰² Acts 1919; Burns 64-102; Baldwin 15515.

²⁰³ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec.

1. Acts 1939; Burns, 1941 suppl., 48-606; Baldwin, 1939 suppl., 12653-1.

²⁰⁴ Acts 1927; Burns 42-1110; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-101; Baldwin 15518.

²⁰⁵ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

²⁰⁶ Acts 1907, 1911; Burns 48-608; Baldwin 11516.

²⁰⁷ Acts 1919, Burns 64-2102; Baldwin 15803.

²⁰⁸ Acts 1931; Burns 42-101, 42-105; Baldwin 10500, 10503. Acts 1931, 1941; Burns, 1941 suppl., 42-102, 42-104, Baldwin, 1941 suppl., 104-9, 10501.

²⁰⁹ Information obtained from Philip Zoerber, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton. See the authorities cited hereinafter under specific text statements.

The State Board of Tax Commissioners prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.²¹⁰ It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,²¹¹ and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.²¹²

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.²¹³

Assessment of real and personal property for county purposes also serves as the assessment for State, township, city, and town purposes.²¹⁴ Personal property is assessed

²¹⁰ Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 122-129.

²¹¹ The State Board of Tax Commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the State Board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property designated "railroad track."

The State Board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the State Department of Treasury.

Except as to the car equipment companies, the assessment of the State Board is certified to the county auditor who apportion it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1927 (Succ. Sess.); Burns 64-703 to 64-740, Baldwin 15717 to 15744. *Thirty-ninth Annual Conference of State Tax Board*, pp. 14-21.

²¹² Acts 1919, 1921 (Succ. Sess.), 1921, 1922, 1923, 1927, 1931, Burns 64-1391 to 64-1398, Baldwin 15745 to 15777, 15780 to 15782, 15782, 15787. Acts 1925; Burns, 1941 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1326, Baldwin, 1935 suppl., 15717, 15722, 15728, 15729, 15735.

²¹³ Information obtained from Philip Zuercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton.

²¹⁴ Acts 1919, Burns 64-2814, Baldwin 15757.

each year as of the first day of March.²¹⁵ Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.²¹⁶ All taxable property, real and personal, is required to be assessed at the true cash value thereof.²¹⁷ Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.²¹⁸ Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.²¹⁹ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.²²⁰

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,²²¹ county assessor,²²² auditor,²²³ or board of review;²²⁴ and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.²²⁵

²¹⁵ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²¹⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

²¹⁷ Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1941 suppl., 64-1019b; Baldwin, 1937 suppl., 15687-2. *Thirty-ninth Annual Conference of State Tax Board*, pp. 54-85.

²¹⁸ Acts 1919; Burns 64-401; Baldwin 15524.

²¹⁹ Acts 1919; Burns 61-601 to 61-604, 61-610; Baldwin 15569 to 15572, 15578. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

²²⁰ Acts 1919; Burns 64-610; Baldwin 15578.

²²¹ Acts 1919; Burns 64-1025; Baldwin 15692.

²²² Acts 1919; Burns 61-1102; Baldwin 15698.

²²³ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²²⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²²⁵ Acts 1919, 1927; Burns 64-2103; Baldwin 15804. Information obtained from Philip

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the State Board of Tax Commissioners for incompetency or neglect of duty.²²⁶

The board of review, after giving 2 weeks' notice meets on the first Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.²²⁷ Any person dissatisfied with the decision of the board of review may appeal to the State Board of Tax Commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the State Board is the final assessment of such property.²²⁸

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.²²⁹

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.²³⁰ For taxation purposes, the auditor keeps a transfer book, arranged by

Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1939, by W. Davis Hamilton.

²²⁶ Acts 1919, 1921; Burns 64-1601, 64-1102; Baldwin 15666, 15698

Death of township assessor. Op. Atty. Gen. 1939, p. 213.

²²⁷ Acts 1919, 1920 (Spec. Sess.), Burns 64-1201, Baldwin 15700.

²²⁸ Acts 1919, 1925; Burns, 1941 suppl., 64-1321, Baldwin, 1726 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

²²⁹ Acts 1919, 1937; Burns, 1941 suppl., 64-1007, Baldwin, 1937 suppl., 15672.

²³⁰ *Ibid.*

townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.²³¹ On the death of a land-owner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.²³²

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year. On or before the first Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.²³³

Reassessment of lots, lands, or improvements can be made only when authorized by the State Board of Tax Commissioners. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the State Board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without an order from the State Board. The last general reassessment of real estate in Indiana was made in 1932.²³⁴

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of

²³¹ Acts 1919; Burns 61-1409; Baldwin 15746.

²³² Acts 1921; Burns 64-519; Baldwin 14777.

²³³ Acts 1319; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15671, 15675, 15679.

15681, 15682. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

See the following footnote.

²³⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl.,

15685. *Thirty-ninth Annual Conference of State Tax Board*, pp. 51-85. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on March 29, 1940, by W. Davis Hamilton.

owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assessed any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.²³⁵ The county assessor,²³⁶ auditor,²³⁷ and board of review²³⁸ also have power to assess such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.²³⁹ Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.²⁴⁰ The decisions of the board of review in reviewing such assessments or in making original assessments of omitted lots, lands, or improvements may be reviewed by the State Board of Tax Commissioners in the manner provided for review of decisions concerning personal property, discussed above.²⁴¹ From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.²⁴²

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the State Board of Tax Commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.²⁴³

²³⁵ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 61-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 61-1025; Baldwin 15692.

²³⁶ Acts 1919; Burns 61-1102; Baldwin 15698.

²³⁷ Acts 1919, Burns 61-1442, 64-2142; Baldwin 15779, 15803.

²³⁸ Acts 1919, 1920 (Spec. Sess.); Burns 61-1201; Baldwin 15700.

²³⁹ Acts 1919; Burns 61-1027; Baldwin 15691.

²⁴⁰ Acts 1919, 1920 (Spec. Sess.); Burns 61-1201, 61-1203; Baldwin 15700, 15704.

²⁴¹ Acts 1919, 1920; Burns, 1941 suppl., 64-1321, Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

²⁴² Acts 1919, 1927; Burns 64-2163; Baldwin 15804. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 18, 1938, by W. Davis Hamilton.

²⁴³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(c), Baldwin, 1937 suppl., 15685(c).

The State Board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole State or any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order reassessment.²⁴⁴

Any person may, before March 31 in any year, file with the State Board of Tax Commissioners a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested reassessment. This is the only method for obtaining reassessment of particular real estate.²⁴⁵

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the State Board of Tax Commissioners before March 31, in any year in which there is no general election of State, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.²⁴⁶

Within 10 days after the valuation of real or personal property is determined by the board of review or State Board of Tax Commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.²⁴⁷

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually

²⁴⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64 1939(b); Baldwin, 1937 suppl., 15685(b).

²⁴⁵ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64 1939(d); Baldwin, 1937 suppl., 15685(d).

²⁴⁶ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64 1939(a); Baldwin, 1937 suppl., 15685(a).

²⁴⁷ Acts 1927; Burns 64 1939; Baldwin 1937.

used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the State for certain purposes; and certain annuities payable by religious or charitable organizations.²⁴⁸ Sworn statements must be filed with the auditor on or before the first day of March each year to obtain exemptions of property other than the following: Property owned by the State of Indiana, the United States, municipal corporations, and political subdivisions of the State; and property owned and used by churches, State-accredited schools, State-accredited charitable institutions, hospitals, and college fraternities and sororities.²⁴⁹

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the first day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the first day of March and the first Monday in May a sworn statement in the form required by law.²⁵⁰

²⁴⁸ Acts 1941, ch. 95, sec. 1. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1941 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1929; Burns, 1941 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. Op. Atty. Gen. 1939, p. 62.

Municipally owned utility is taxable to the extent it is used in a proprietary capacity. *Borgman v. Fort Wayne*, 215 Ind. 201, 18 N. E. (2d) 762 (1939).

Farms operated by colleges and hospitals. Op. Atty. Gen. 1939, p. 146. Bridge across Ohio River. *Rid.*, p. 291.

Disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 61-205 to 64-207; Baldwin 10986 to 10988. Acts 1941; Burns, 1941 suppl., 61-223, 64-224; Baldwin, 1941 suppl., 15521-1, 15521-2.

²⁴⁹ Acts 1937; Burns, 1941 suppl., 64-213, 61-215; Baldwin, 1937 suppl., 15518-2, 15518-4.

²⁵⁰ Acts 1919, 1939; Burns, 1941 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Op. Atty. Gen. 1939, p. 123. *Thirty-ninth Annual Conference of State Tax Board*, pp. 61-74.

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.²⁵¹

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the State Board of Tax Commissioners.²⁵²

Appeal from the action of the county council may be taken to the State Board of Tax Commissioners. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the State Board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.²⁵³

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; or, (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.²⁵⁴

Under the 1909 act the owner was required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1897, Burns 64-100; Baldwin 153-5.

²⁵¹ Acts 1919, 1920 (Spec. Sess.); Burns 64-100; Baldwin 153-5.

²⁵² Acts 1899; Burns 25-16 to 26-10; added in 1907 to 584. Acts 1920 (Spec. Sess.); Burns 64-130; Baldwin 153-3. Acts 1917, Burns 64-170; Baldwin 153-4. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1928; Burns, 1911 suppl., 64-101, 64-102; Baldwin, 1915 suppl., 15735, 15737-1.

²⁵³ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1928; Burns, 1911 suppl., 64-100; Baldwin, 1915 suppl., 15735.

²⁵⁴ Acts 1925; Burns, 1911 suppl., 64-101, et seq.; Baldwin, 1915 suppl., 15736, 15737-7.

Except on authorization of the State Board of Tax Commissioners, the total tax rate for all purposes other than those stated in the preceding paragraph cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.²⁵⁵

At least 2 days before the second Monday in September, each municipal corporation²⁵⁶ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.²⁵⁷ The board of tax adjustment meets on the second Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.²⁵⁸ It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the State Board of Tax Commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The State Board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.²⁵⁹

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each

²⁵⁵ Acts 1937, Burns, 1941 suppl., 61-62, Baldwin, 1937 suppl., 12327-3.

²⁵⁶ The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the State. Acts 1937; Burns, 1941 suppl., 61-62, Baldwin, 1937 suppl., 12327-2.

²⁵⁷ Acts 1937, Burns, 1941 suppl., 61-61, Baldwin, 1937 suppl., 12327-5.

²⁵⁸ Acts 1937, Burns, 1941 suppl., 61-61, Baldwin, 1937 suppl., 12327-4.

²⁵⁹ Acts 1937, Burns, 1941 suppl., 61-61, Baldwin, 1937 suppl., 12327-5.

municipal corporation before October 6. Appeal to the State Board of Tax Commissioners may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the State Board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, but not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The State Board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.²⁶⁰

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.²⁶¹

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the State Board of Tax Commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the State Board, and its decision thereon is final and conclusive.²⁶²

Between the first Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll taxes, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the State Board of Tax Commissioners. He numbers each original township, city, and town in regular progression, as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 he delivers

²⁶⁰ Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

²⁶¹ Acts 1937; Burns, 1941 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

²⁶² Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

Acts 1919, 1920 (Spec Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1321; Baldwin, 1935 suppl., 15735.

to the Auditor of State a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.²⁶³

Property taxes for State, county, township, city, and town purposes are payable to the county treasurer in two equal instalments on or before the first Monday in May and the first Monday in November, respectively, in the year following the year for which the property was assessed. If any instalment is not paid when it becomes due, such instalment becomes delinquent, and a penalty of 8 percent of such instalment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the first Monday in November of the year in which the delinquency accrued.²⁶⁴

A personal property tax receipt must be presented to any licensing authority to obtain an occupation license required by the State, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁶⁵

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the second Monday in April, after advertisement, but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser,

²⁶³ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

²⁶⁴ Acts 1919; Burns 64-1502, Baldwin 15748. Acts 1932 (Spec Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1941 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

²⁶⁵ Acts 1931; Burns 42-103, 42-107, Baldwin 15760, 15763. Acts 1931, 1941; Burns, 1941 suppl., 42-102, 42-105, Baldwin, 1941 suppl., 15799, 15801.

and states when a tax deed (to be executed by the auditor) may be obtained by the holder of the certificate.²⁶⁶

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued by the auditor at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes and penalties for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.²⁶⁷

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax

²⁶⁶ Acts 1932 (Spec. Sess.); Burns 64-1509, 61-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1518, 64-1701 to 61-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15578 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Op. Atty. Gen. 1940, p. 40.

If a delinquent taxpayer has in the county personalty which is liable to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.*, 209 Ind. 84, 198 N. E. 73 (1935); *Weaver v. Kauffman*, 57 Ind. App. 59, 106 N. E. 398 (1914).

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. *Voigt v. Ludlow Typograph Co.*, 213 Ind. 329, 12 N. E. (2d) 499 (1938).

²⁶⁷ Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Information obtained from E. P. Brennan, State Examiner, on January 22, 1940, by W. Davis Hamilton.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 61-2302; Baldwin 15820

sales and no sufficient bid as aforesaid has been made previous to the first Morday of the following December, the property must be bid in by the county auditor for a sum equal to the delinquent taxes and the costs thereon. The county immediately receives a deed therefor, but the original owner may redeem the property within one year after the date of sale.²⁶⁸

Semiannually lists of delinquent taxes due from officials and employees of local governmental units are submitted by the county treasurer to each disbursing officer of such units, who deducts 10 per cent of said delinquents' salaries in excess of \$15 per week for payment to the county treasurer until such taxes are paid in full.²⁶⁹

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax²⁷⁰ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the State Board of Tax Commissioners.²⁷¹

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the State Board of Tax Commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.²⁷² The appraiser makes his report in duplicate, one copy to the court and one to the State Board of Tax Commissioners.²⁷³ The treasurer collects the

²⁶⁸ Acts 1919, ch. 59, secs. 222, 257. Acts 1922 (Spec. Sess.); Burns 61-1509; Baldwin 15752. Acts 1919, 1921, 1927, 1941, Burns, 1927 suppl., 61-2202, 61-2203, 61-2204; Baldwin, 1937 suppl., 15807; Baldwin, 1941 suppl., 15808, 15810. Op. Atty. Gen. 1938, p. 225, 1939, p. 211; 1940, p. 40.

²⁶⁹ Acts 1925, 1941; Burns, 1941 suppl., 61-1509, 61-1510; Baldwin, 1941 suppl., 15767, 15768.

²⁷⁰ Lutz v. Arnold, 20 Ind. 459, 13 N. E. 840 (1895).

²⁷¹ Acts 1933, Burns 61-801 to 61-834; Baldwin 15655 to 15615. Op. Atty. Gen. 1929, p. 252; 1940, p. 59.

²⁷² Act 1941, Burns 62-10; Baldwin 15916. Acts 1921, 1933, 1937, Burns, 1941 suppl., 62467; Baldwin, 1937 suppl., 15745. Op. Atty. Gen. 1929, p. 326. *Thirty-ninth Annual Conference of State Tax Officials*, pp. 12-39.

²⁷³ Acts 1941, Burns 62410, Baldwin 15948.

tax and issues a receipt in duplicate, one copy of which is sent to the State Board; and no final accounting of an estate is made until such receipt is countersigned by that board.²⁷⁴ The county treasurer must report quarterly to the Auditor of State all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the Treasurer of State.²⁷⁵ When directed by the court to do so, the prosecuting attorney sues to collect the tax.²⁷⁶

The intangible tax²⁷⁷ is a stamp tax on notes, stocks, bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor²⁷⁸ and treasurer, under the supervision of the State Board of Tax Commissioners. Stamps are issued by the State Board and sold by the county treasurer.²⁷⁹ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.²⁸⁰ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located in the manner in which omitted property is assessed for property taxes, and becomes a lien upon all property of the taxpayer in the county.²⁸¹ Suit for collection may be brought by the prosecuting attorney or the the Attorney General.²⁸²

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each

²⁷⁴ Acts 1931; Burns 6-2413; Baldwin 15951.

²⁷⁵ Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. Op. Atty. Gen. 1939, p. 68.

²⁷⁶ Acts 1931; Burns 6-2415; Baldwin 15953.

²⁷⁷ The intangible tax is an excise tax. Lutz v. Arnold, 208 Ind. 480, 193 N. E. 840 (1935).

²⁷⁸ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1941 suppl., 64-906; Baldwin, 1935 suppl., 15904. *Thirty-ninth Annual Conference of State Tax Board*, pp. 39-53. Op. Atty. Gen. 1940, pp. 110, 151, 203.

Mortgage which does not create a personal liability is subject to intangible tax. Op. Atty. Gen. 1939, p. 222.

²⁷⁹ Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

²⁸⁰ Acts 1933; Burns 64-918; Baldwin 15916.

²⁸¹ Acts 1933, 1935; Burns, 1941 suppl., 64-915; Baldwin, 1935 suppl., 15913.

Actions on documents on which tax not been paid. *First State Bank v. Montoney*, 106 Ind. App. 61, 17 N. E. (2d) 870 (1939); *Davia v. Bankers Trust Co.*, 106 Ind. App. 422, 20 N. E. (2d) 686 (1939).

²⁸² Acts 1933; Burns 64-921; Baldwin 15919.

township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.²⁸³ The money so collected constitutes a fund known as the "dog fund," and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the first Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.²⁸⁴

The clerk of the circuit court issues licenses for marriages,²⁸⁵ physicians, surgeons,²⁸⁶ midwives,²⁸⁷ osteopaths,²⁸⁸ chiropractors, drugless healers,²⁸⁹ dentists,²⁹⁰ optometrists,²⁹¹ nurses,²⁹² hunting, trapping, fishing,²⁹³

²⁸³ Acts 1937; Burns, 1941 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

²⁸⁴ Acts 1937, 1941; Burns, 1941 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8, 3811-10; Baldwin, 1941 suppl., 3811-9.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the Auditor of State in accordance with the 1937 law, not to schools under the 1929 law. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

²⁸⁵ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939, Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1941 suppl., 41-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁸⁶ Acts 1831, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 162, sec. 10). Acts 1897, Burns 63-1303; Baldwin 1070.

²⁸⁷ Acts 1887; Burns 63-1309; Baldwin 10709.

²⁸⁸ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁸⁹ Acts 1927; Burns 63-1312; Baldwin 10713.

²⁹⁰ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935, Burns, 1941 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

²⁹¹ Acts 1907; Burns 63-1009; Baldwin 13150. Acts 1907, 1935, Burns, 1941 suppl., 63-1010, 63-1011, Baldwin, 1935 suppl., 13151, 13152.

²⁹² Acts 1902, 1913, 1941, Burns 63-907; Baldwin 13156.

²⁹³ Acts 1901, ch. 162, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, sec. 1, 2.

poultry dealers,²⁹⁴ and junk dealers.²⁹⁵ Formerly he issued liquor licenses,²⁹⁶ brokers' licenses,²⁹⁷ licenses for veterinarians,²⁹⁸ stallions,²⁹⁹ and petty money lenders,³⁰⁰ and kept a register of certificates of agents of foreign insurance companies.³⁰¹

The judges of the circuit court have authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.³⁰² The sheriff issues licenses for the retail sale of pistols.³⁰³

The county auditor issues licenses for peddlers, shows, theaters,³⁰⁴ transient merchants,³⁰⁵ public warehouses,³⁰⁶

Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1941 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

²⁹⁴ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

²⁹⁵ Acts 1905; Burns 42-703; Baldwin 10462.

²⁹⁶ This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

²⁹⁷ Acts 1840-41 (general), ch. 5, sec. 18.

²⁹⁸ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

²⁹⁹ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁰⁰ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

³⁰¹ Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

³⁰² Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1941 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. Op. Atty. Gen. 1937, p. 242.

³⁰³ Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police. *Ibid.*

³⁰⁴ Acts 1917, 1937; Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

³⁰⁵ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

³⁰⁶ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

and ferries.³⁰⁷ He issued liquor licenses before 1917.³⁰⁸ The board of commissioners authorizes the issuance of ferry licenses,³⁰⁹ and before 1917 authorized the issuance of liquor licenses.³¹⁰

FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. An officer cannot draw any salary while illegally withholding fees.³¹¹

County officials may charge and collect only such fees

³⁰⁷ Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1844 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 52, ch. 17, secs. 1-3. 1 Rev. Stat. 1852, Burns 26-611, 26-621, 49-5004; Baldwin 52-6, 5-8, 5418. Acts 1861 (Spec. Sess.), 1911; Burns 26-2201 to 26-2204, Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 26-250, to 26-267; Baldwin 76-1 to 76-7. Acts 1881 (Spec. Sess.), 1897; Burns 26-269 to 26-268; Baldwin 7698 to 7703. Acts 1917, 1937, Burns, 1941 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁰⁸ Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 165, secs. 4-8, ch. 166, secs. 1, 2. Acts 1878 (Spec. Sess.), ch. 15. Acts 1859, ch. 107, secs. 1-7. Acts 1871, ch. 107, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1885, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 15, 20; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁰⁹ Acts 1807, ch. 35 (miscellaneous), secs. 1, 6; ch. 51, sec. 11. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 11, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1841 (Spec. Sess.), 1811, Burns 36-231 to 36-237, Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 26-261 to 26-267; Baldwin 76-1 to 76-7. Acts 1861 (Spec. Sess.), 1877, Burns 26-268 to 26-268; Baldwin 7698 to 7703. Acts 1917, 1937; Burns, 1941 suppl., 42-201, Baldwin, 1937 suppl., 10443.

³¹⁰ Acts 1807, ch. 17, secs. 1, 4. Acts 1812, ch. 5, sec. 2. Acts 1817 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 107, secs. 2-10. Rev. Stat. 1843, ch. 13, sec. 15. 1 Rev. Stat. 1852, ch. 97, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 165, secs. 4-8, ch. 166, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 107, sec. 1-7. Acts 1871, ch. 107, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1885, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 15, 20; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³¹¹ Acts 1807, Burns 26-231 to 26-237, Baldwin 7676 to 7679. Acts 1855; Burns 26-268; Baldwin 7698 to 7703. *Keller v. Saunders*, 17 Ind. 127, 3 N. E. 130 (1844); *Applegate v. State ex rel Pettit*, 36 Ind. 122, 36 N. E. 311 (1875); *Board of County Comm. v. Lewis*, 41 Ind. App. 601, 144 N. E. 625 (1924).

as are allowed by statute.^{§12} If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.^{§13} If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;^{§14} and if he pays over fees which he is entitled to retain, he may sue to recover the same.^{§15}

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.^{§16}

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.^{§17} The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.^{§18}

FUNDS RECEIVED FROM THE STATE

The 92 counties in Indiana quarterly receive \$3,050,000 (if available) from the State motor vehicle highway account (composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs), distributed among the counties on the following basis: 5 percent divided equally; 52½

§12 Noble v. Board of County Comrs., 101 Ind. 127 (1885); Legler v. Paine, 147 Ind. 181, 45 N. E. 604 (1896).

§13 State ex rel. Board of County Comrs. v. Williams, 39 Ind. App. 376, 77 N. E. 1137 (1906).

§14 Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State ex rel. Board of County Comrs., 165 Ind. 42, 73 N. E. 917 (1905).

§15 Board of County Comrs. v. Crone, 36 Ind. App. 283, 75 N. E. 826 (1905).

§16 Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13854.

§17 Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

§18 Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

percent divided according to the ratio of miles of county roads in the county to total mileage of county roads in the State; and 42½ percent divided according to the ratio of motor vehicle registrations in each county to the total motor vehicle registrations of the State. Such funds are used by the county for construction and maintenance of county roads and bridges thereon.^{§19}

The counties receive from the State a portion of the license fee on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.^{§20}

Each county receives from the State (including Federal funds), as reimbursement, about 81 percent of the money spent by the county for welfare assistance.^{§21}

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.^{§22} School funds are discussed hereinafter under the heading "Education."

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they

^{§19} Acts 1941; Burns, 1941 suppl., 36-2817; Baldwin, 1941 suppl., 8695-17.

^{§20} Acts 1935, 1937, 1939; Burns, 1941 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40(f).

^{§21} Acts 1916 (Spec. Sess.); Burns, 1941 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. Information obtained from Frank G. Thompson, Auditor of State, on March 31, 1939, by W. Davis Hamilton.

^{§22} Acts 1933; Burns 64-922; Baldwin 15920.

find it to be just and owing.^{§23} The board cannot allow a claim that it previously disallowed.^{§24}

A claim for services can exist only by contract or by a statute providing for the services and directing compensation.^{§25} A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.^{§26} A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.^{§27} A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.^{§28}

An allowance not called for within 5 years may be canceled.^{§29} Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.^{§30} However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.^{§31}

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.^{§32} No complaint other than the claim (including

§23 Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5255. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5154, 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

§24 Myers v. Gibson, 152 Ind. 500, 53 N. E. 646 (1899).

§25 Board of County Comrs. v. Greensburg Times, 215 Ind. 471, 19 N. E. (2d) 459, 20 N. E. (2d) 647 (1939).

§26 Acts 1899; Burns 26-538; Baldwin 5403.

§27 Acts 1899; Burns 26-539; Baldwin 5104.

§28 Acts 1911; Burns 26-814; Baldwin 5265

§29 Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

§30 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

§31 Waymire v. Powell, 105 Ind. 328, 4 N. E. 886 (1886).

§32 Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

certificates and exhibits, if any) presented to the board is required on appeal.³³⁸ If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.³³⁴

In pursuance of appropriations by the county council,³³⁶ the judge of the circuit court may make allowances against the county for expenses of administration of justice.³³⁶ Such allowances include compensation of witnesses,³³⁷ jurors,³³⁸ master commissioners,³³⁹ sheriff,³⁴⁰ bailiffs,³⁴¹ court reporter,³⁴² court page,³⁴³ and attorneys appointed to represent poor persons.³⁴⁴

Within 10 days after adjournment of the session of the board of commissioners or circuit court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.³⁴⁵

The county director of public welfare may make allowances for welfare assistance; and the clerk of the circuit court makes allowances for clothing for insane paupers in institutions.³⁴⁶

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county,

³³⁸ Board of County Comrs. v. Wertz, 112 Ind. 268, 13 N. E. 874 (1887).

³³⁴ Western Constr. Co. v. Board of County Comrs., 178 Ind. 684, 98 N. E. 347 (1912).

³³⁵ Acts 1899; Burns 26 515, 26-527; Baldwin 5479, 5391.

³³⁶ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Plank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1426.

³³⁷ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

³³⁸ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

³³⁹ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

³⁴⁰ Acts 1885, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

³⁴¹ Acts 1891, 1933; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311, Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939, p. 312.

³⁴² Acts 1921, 1929; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893, Burns 4-3511, Baldwin 1500.

³⁴³ Op. Atty. Gen. 1939, p. 312.

³⁴⁴ Acts 1881 (Spec. Sess.), Burns 2-211, 2-212, Baldwin 26, 27. Acts 1905; Burns 9-1314. Baldwin 2235. Op. Atty. Gen. 1939, p. 351.

³⁴⁵ Acts 1899; Burns 26 816; Baldwin 5268. Acts 1931; Burns 26 817; Baldwin 5269.

³⁴⁶ Acts 1927, 1933, Burns 22-1215, 22-1216, Baldwin 4307, 4308. Acts 1926 (Spec. Sess.);

and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.³⁴⁷

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.³⁴⁸ The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.³⁴⁹ The resignation of a depository becomes effective 30 days after notice thereof to the board.³⁵⁰ Monthly statements are furnished by the depository to the board on or before the fifth day of each month, and are preserved in the office of the board.³⁵¹ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the fifth day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.³⁵² The treasurer deposits quarterly with the auditor all redeemed warrants.³⁵³

When the auditor draws a warrant, he charges it against the appropriation and particular fund from which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁵⁴ Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by

Burns, 1941 suppl., 52-1124; Baldwin 1937 suppl., 14073-25. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1824).

³⁴⁷ Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁴⁸ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

³⁴⁹ Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

³⁵⁰ Acts 1937; Burns, 1941 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

³⁵¹ Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

³⁵² Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *State ex rel. Jackson v. Middleton*, 215 Ind. 219, 19 N. E. (2d) 470 (1939). *Op. Atty. Gen.* 1939, p. 247.

³⁵³ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, State Examiner, on May 18, 1839, by W. Davis Hamilton.

³⁵⁴ Acts 1899, Burns 26-544, Baldwin 5409.

holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.³⁶⁰ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.³⁶¹ Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.³⁶² When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.³⁶³

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.³⁶⁴ The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.³⁶⁵ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.³⁶⁶

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.³⁶⁷

The board of commissioners, at its first regular session

³⁶⁰ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁶¹ Acts 1855; Burns 49-1097, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³⁶² 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

³⁶³ 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

³⁶⁴ Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

³⁶⁵ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5534.

³⁶⁶ Acts 1855, 1913; Burns 49-1403; Baldwin 7578.

³⁶⁷ 2 Rev. Stat. 1852, Acts 1894; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns; 49-3104; Baldwin 5551.

each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.⁸⁶⁸ The treasurer makes complete settlements with the board of commissioners at its January session each year.⁸⁶⁹ Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.⁸⁷⁰

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the State and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.⁸⁷¹

From time to time without notice, the books and accounts of county officers are audited by the State Examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.⁸⁷²

PUBLIC DEBT

The Constitution of 1851 provides that the total amount of the county debt shall not exceed 2 percent of the value of the taxable property therein,⁸⁷³ and a statute provides

⁸⁶⁸ Acts 1889; Burns 26-546; Baldwin 5411.

⁸⁶⁹ Acts 1889; Burns 26-531; Baldwin 5396.

Formerly the settlement was made in June. 1 Rev. Stat. 1852, Burns 49-2116; Baldwin 5563.

The State Board of Accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1889; Burns 26-531; Baldwin 5395.

⁸⁷⁰ Acts 1889 (Spec. Sess.); Burns 26-637; Baldwin 5241.

⁸⁷¹ Acts 1907; Burns, 1-41 suppl., 61-626; Baldwin, 1937 suppl., 12844-47.

⁸⁷² 1 Rev. Stat. 1852, Acts 1835; Burns, 1911 suppl., 26-620, Baldwin, 1935 suppl., 5236.

Acts 1897; Burns 26-676; Baldwin 5307. 2 Rev. Stat. 1852; Burns 49-272; Baldwin 1439. 1 Rev. Stat. 1852, Burns 49-2110, Baldwin 5565. Acts 1809, 1910; Burns 2-201, 69-211, Baldwin 1854, 13862. Op. Atty. Gen. 1929, p. 184. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁸⁷³ Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Id.*

that such debt shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.³⁷⁴

The borrowing of money for the county must be authorized by ordinance of the county council.³⁷⁵ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.³⁷⁶ The obligations may bear interest at a rate not exceeding 6 percent per annum. If the interest rate exceeds 5 percent the issuance must be approved by the State Board of Tax Commissioners.³⁷⁷ The council may provide for maturities at any time not exceeding 52 years from issuance.³⁷⁸

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the State Board of Tax Commissioners for hearing and disposition.³⁷⁹

Temporary loans, evidenced by tax anticipation notes or warrants, may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.³⁸⁰

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such

Bonds for construction of an interstate bridge, payable only from proceeds of bridge tolls, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bernett v. Spencer County Bridge Commission*, 213 Ind. 520, 13 N. E. (2d) 547 (1938).

³⁷⁴ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

³⁷⁵ *Ibid.*

³⁷⁶ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

³⁷⁷ Acts 1899, 1921, 1929; Burns 26-532, Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁷⁸ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 12856.

³⁷⁹ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁸⁰ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1903; Burns 26-1022; Baldwin 5397.

debt.³⁸¹ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.³⁸²

ELECTIONS

In Indiana there are three types of elections: Primary, special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the State) and electing precinct committeemen and delegates to State conventions of political parties. The primary election is mandatory for each political party in the State casting for its candidate for Secretary of State 10 percent or more of the aggregate vote cast for all candidates for Secretary of State in the last general election.³⁸³ All election days are legal holidays in the district or city where the election is held.³⁸⁴ Special elections are held to fill vacancies in the Indiana General Assembly, vacancies in the office of Representative in Congress, and vacancies in offices required to be filled by special election. They are also held to fill all offices (except city and township) in case of a tie vote. They are ordered by the Governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.³⁸⁵ The general election, held biennially, is for the purpose of filling existing vacancies in office and filling all offices the terms of which will expire before the next general election thereafter.³⁸⁶

Primary elections are held on the first Tuesday after the first Monday in May preceding the general elections.³⁸⁷ They are held under the supervision of the board of primary

³⁸¹ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

³⁸² 1 Rev. Stat. 1852, Burns 26-1007; Baldwin 5248.

³⁸³ Acts 1905; Burns 29-501; Baldwin 7187.

³⁸⁴ Acts 1889; Burns 29-1613; Baldwin 7171.

³⁸⁵ Acts 1905; Burns 29-1406; Baldwin 7382. Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701 to 29-1704; Baldwin 7182, 7246 to 7249. Acts 1933; Burns 29-1903; Baldwin 7252. Acts 1905, 1909; Burns 48-140, Baldwin 11424.

³⁸⁶ Acts 1881 (Spec. Sess.); Burns 29-501; Baldwin 7081.

³⁸⁷ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

election commissioners, consisting of the clerk of the circuit court and two persons (of opposite political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections.³⁸⁸ It serves as the county board of election commissioners at the next general election³⁸⁹ and as a canvassing board for all elections.³⁹⁰

Primary elections are conducted by the following officials for each precinct: "One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections."³⁹¹

General elections are held biennially on the first Tuesday after the first Monday in November of even-numbered years.³⁹² County officers elected by the people are county commissioners, county councilmen, judge of the circuit court, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor.³⁹³ These elections are held under the supervision of the county board of election commissioners, which prepares and distributes the ballots therefor.³⁹⁴

³⁸⁸ Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State ex rel. Marion County Democratic Committee v. Marion Superior Court, 214 Ind. 322, 15 N.E. (2d) 379 (1938).

³⁸⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7150.

³⁹⁰ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

³⁹¹ Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

³⁹² Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

³⁹³ See the separate essays for these offices.

³⁹⁴ Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled "County Board of Election Commissioners."

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the last election for Secretary of State. The township trustee serves as the election inspector in the precinct in which he resides unless he is disqualified. Each party may appoint one challenger and one pollbook holder in each precinct to represent that party in the challenge of voters.³⁹⁵

The Constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the Legislature power to provide for the registration of voters.³⁹⁶

All voters at general elections and State-wide special elections must be duly registered for voting;³⁹⁷ must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general

³⁹⁵ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-605 to 29-607; Baldwin 7094 to 7096.

³⁹⁶ Const. 1851, art. 2, secs. 1, 2, 14.

³⁹⁷ Acts 1933; Burns 29-301; Baldwin 7299. Acts 1933, 1935; Burns, 1941 suppl., 29-336; Baldwin, 1935 suppl., 7334. See the essay entitled "Registration Officer."

or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.³⁹⁸ Students, soldiers, sailors, and marines acquire no residence in the State for voting purposes by virtue of temporary residence or of being stationed therein.³⁹⁹ The registration officer (the clerk of the circuit court *ex officio*) conducts the registration of voters.⁴⁰⁰

Any political or civic party, association, or organization may, at any time prior to any election, take a poll of voters qualified to vote at the next ensuing election, in any district, county, township, municipality, ward, precinct, or precincts of the State. The chairman, president, or other chief officer of the party, association, or organization taking such poll must issue to the person or persons employed in taking the poll a certificate showing the nature of such employment and the party, organization, or association for which the poll is taken. Failure to furnish correct information to these poll takers is punishable as a criminal offense.⁴⁰¹

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁴⁰² providing rooms for polling places and equipping them with voting booths and ballot boxes;⁴⁰³ and the purchase of voting machines for the several precincts.⁴⁰⁴

Any qualified and registered elector of the county who, by reason of the nature of his business, attendance at some educational institution, or service in the Army or Navy, is absent or expects to be absent from the county on the day of holding an election may vote by an absent-voter's ballot which

³⁹⁸ U. S. Const. Amends. 14, 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7063. *Kelso v. Cook*, 184 Ind. 173, 110 N. E. 937 (1916).

³⁹⁹ Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7065. Acts 1935, 1941; Burns, 1941 suppl., 29-2601; Baldwin, 1941 suppl., 7056-1.

⁴⁰⁰ Acts 1933, 1935; Burns, 1941 suppl., 29-306; Baldwin, 1935 suppl., 7304.

⁴⁰¹ Acts 1897; Burns 29-401 to 29-406; Baldwin 7343 to 7318.

⁴⁰² Acts 1933; Burns 29-319; Baldwin 7317. Acts 1859, 1907; Burns 29-801; Baldwin 7089.

Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

⁴⁰³ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁴⁰⁴ Acts 1939; Burns, 1941 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

he, by mail or in person, procures from the clerk of the circuit court.⁴⁰⁵

When any elector presents himself to vote at an election, he is required to sign his name and address on the voters' poll list. In case of doubt concerning his identity, such signature is compared with the signature on the affidavit of registration. As soon as he has voted, a notation is made on his affidavit of registration showing he has voted at that election. If the voter cannot sign his name, it will be written for him by an election clerk, with the clerk's initials in parentheses, after the identity of the voter has been established by interrogation. If any member of the election board is not satisfied that any person who presents himself to vote is the person he represents himself to be, he may challenge the vote of such person, in which event such person must sign an affidavit as set forth in the next paragraph.⁴⁰⁶

When any person offering to vote is challenged by one of the challengers or by any member of the election board, he must stand aside and must not vote until he makes an affidavit in statutory form, and, in elections at which registration is required, produces his certificate of registration. The affidavit must state that he is a qualified and legal voter of the precinct and must set forth his name, residence, occupation, and place or places of residence during the 6 months immediately preceding the election, with the date of any removal within that time. It must also state the names of two persons who have personal knowledge of his residence in the precinct 30 days and the township 60 days immediately preceding the election. He will then be allowed to vote unless the challenger or some qualified voter of the precinct makes an affidavit that he knows, or is informed and verily believes, that the person offering to vote is not a legal voter in the precinct. If the latter affidavit is made on information and belief, it must set forth the names of the persons from whom such information was obtained. After this counter-affidavit is made, the person offering to vote cannot vote unless he presents the affidavit of another person showing that he is a legal voter of the precinct. Forms of these

⁴⁰⁵ Acts 1935, 1941; Burns, 1941 suppl., 29-2601 to 29-2623; Baldwin, 1941 suppl., 7348-1 to 7348-23.

⁴⁰⁶ Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304. Acts 1889, 1899; Burns 29-332; Baldwin 7330.

affidavits are set out in the statutes and printed blanks containing the same are available at each voting place.⁴⁰⁷

The board of canvassers (consisting of the election commissioners,⁴⁰⁸ with the clerk of the circuit court acting as clerk)⁴⁰⁹ tabulates and compiles the election returns, files all data, canvass sheets, certificates, pollbooks, and tally papers in the office of the clerk, and certifies the candidates elected.⁴¹⁰ Each of the four major political parties is entitled to have one watcher present during the voting and canvassing at general elections.⁴¹¹ Each political party represented at a primary election and each daily newspaper of general circulation is entitled to similar watchers at the canvassing of ballots cast at such primary election.⁴¹²

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 15 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.⁴¹³

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.⁴¹⁴

EDUCATION

FUNDS

The Ordinance of 1787, which created the Northwest

⁴⁰⁷ Acts 1933; Burns 29-1122; Baldwin 7136.

⁴⁰⁸ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁴⁰⁹ Acts 1905; Burns 29-1402; Baldwin 7378.

⁴¹⁰ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor*, 214 Ind. 542, 16 N.

E. (2d) 845 (1938).

⁴¹¹ Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 7147.

⁴¹² Acts 1915; Burns 29-527; Baldwin 7213. Acts 1931; Burns 29-528; Baldwin 7214. Acts 1929; Burns, 1941 suppl., 29-569; Baldwin, 1939 suppl., 7245-8.

⁴¹³ Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1933, ch. 242. Acts 1935, ch. 82. Acts 1941, ch. 122. State ex rel. *Lord v. Sullivan*, 214 Ind. 279, 15 N. E. (2d) 384 (1938); State ex rel. *Robertson v. Lake Circuit Court*, 215 Ind. 18, 17 N. E. (2d) 805 (1938); *Gossard v. Vawter*, 215 Ind. 581, 21 N. E. (2d) 416 (1939).

⁴¹⁴ Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

Territory and provided for the creation of not less than three nor more than five States therefrom (of which Indiana was one), contained the following provision: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."⁴¹⁵ The act of Congress of April 19, 1816 for the admission of Indiana Territory as a State contained the following provision: "Section numbered sixteen, in every township, and when such section has been sold, granted or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools." The moneys arising from the sale of such lands became known as the "Congressional township fund."⁴¹⁶ These funds were not handled efficiently before 1851.⁴¹⁷

Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.⁴¹⁸ Previous to the imposition of this school tax, the only sources of revenue for school operation were liquor license fees, fines for breach of the penal laws, numerous statutory penalties, leases of school lands, and interest on loans from the Congressional township fund.⁴¹⁹ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the State.⁴²⁰ The school law of 1865 brought the most complete revision.⁴²¹ The Constitution provides that the General Assembly shall encourage and provide for a general and uniform system of common schools.⁴²²

The Constitution of 1851 established the common school fund composed of the Congressional township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto;

⁴¹⁵ U. S. Stat. 1:52 note (law of 1787).

⁴¹⁶ U. S. Stat. 2:289 (law of 1816).

⁴¹⁷ Logan Eberly, *History of Indiana*, II, 679.

⁴¹⁸ Acts 1818-49 (general), ch. 116, sec. 1. Fayette A. Cotton, *Education in Indiana (1793 to 1934)*, p. 10.

⁴¹⁹ Acts 1816-17, ch. 11, sec. 12; ch. 27, sec. 1. Acts 1817-18 (general), ch. 4, sec. 3, ch. 20, sec. 2, ch. 22, sec. 9. Acts 1818-19, ch. 5, sec. 2. Rev. L., 1821, ch. 22, sec. 2; ch. 39, sec. 9. Acts 1822-30, ch. 9, sec. 4. Rev. L., 1831, ch. 54, sec. 15; ch. 66, sec. 16, 50.

⁴²⁰ Const., 1851, art. 8. I. Rev. Stat., 1852, ch. 98.

⁴²¹ Acts 1865, Burns 28:131; Baldwin 6499.

⁴²² Const., 1851, art. 8, sec. 1.

the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the State for want of heirs; taxes on the property of corporations which may be assessed by the General Assembly for common school purposes; and all lands granted to the State without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).⁴²³ The provision concerning the sale of seminary properties and transfer of funds derived therefrom was declared void by the Supreme Court of Indiana in 1862.⁴²⁴

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it might increase but never diminish; and that the interest earned by the fund might be expended for the support of the common schools and for no other purpose. The General Assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.⁴²⁵

The school funds managed by the county are kept by the county auditor in three separate accounts: (a) The common school fund; (b) the Congressional township fund; and (c) the permanent endowment fund of Indiana University. The last fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1888 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on the Congressional township fund remains in the township and is distributed to the school township and the school cities and school towns therein. The basis of this distribution is the average daily attendance of school children in these school

⁴²³ Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

Fines for contempt of court go into the common school fund. *Swift v. State ex rel. Clark*, 63 Ind. 81 (1878).

Swamplands granted to State. U. S. Stat., 9:519 (law of 1850).

⁴²⁴ *Edwards v. Jagers*, 19 Ind. 407 (1862).

⁴²⁵ Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907;

Burns 28-102; Baldwin 6500.

corporations. The interest on the Congressional township fund and the interest on the common school fund are treated as a combined fund for the purpose of computing the apportionment and distribution of the common school fund, which is distributed from the State treasury to the counties on the basis of average daily attendance therein. The amount received by each county from the interest on the common school fund is apportioned by the county auditor to the townships, school cities, and school towns within the county on the basis of average daily attendance. The amount of revenue received by a school corporation from the Congressional township fund is credited on the amount apportioned to such school corporation under the combined fund. The interest on the common school fund and Congressional township fund is used for the support of the common schools in the school corporations participating therein. Wells County (including Bluffton) received \$3,505.09 for the school year 1939-40 from this source. The interest on the permanent endowment fund of Indiana University is paid to the State Treasurer, and he pays it to the trustees of Indiana University.⁴²⁶

The interest on the school funds aforesaid is supplemented by other funds provided by the General Assembly for the public schools. From the general fund, the State supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."⁴²⁷ The total amount received by Wells County (including Bluffton) from this source during the school year 1939-40 was \$86,105.55.⁴²⁸

⁴²⁶ Const. 1851, art. 8, secs. 2-7. Acts 1807; Burns 28-102; Baldwin 6500. Acts 1865, Burns 28-104, 23-105; Baldwin 6100-1, 6511. Acts 1865, 1873, 1887, Burns 28-008, 28-1019; Baldwin 6485, 6496. Acts 1865, 1883, 1902 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6190. Board of County Comrs. v. State ex rel. Hard, 103 Ind. 497, 3 N. E. 165 (1885). Board of County Comrs. v. Michener, 120 Ind. 412, 22 N. E. 329 (1889). *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38. Information obtained from E. P. Brennan, State Examiner, on February 26, 1941, by Emerson Erock. See the essay entitled "County School Fund Board."

Permanent endowment fund of Indiana University. Acts 1887, Burns 28-542 to 28-5545, Baldwin 6308 to 6-11. Acts 1887, Burns 28-577; Baldwin 6000. *Traylor v. Brower*, 159 Ind. 139, 61 N. E. 611 (1902).

⁴²⁷ Acts 1887, 1905, 1887, Burns, 1911 suppl. 1, 2-101 to 23-102; Baldwin, 1887 suppl. 6502 to 6504.

⁴²⁸ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 16, 22.

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.⁴²⁹ Wells County (including Bluffton) received \$4,233.56 from this source for the school year 1939-40.⁴³⁰

A State stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the State for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to the school taxing units in the county on the basis of assessed valuation of real property in the several units.⁴³¹ For the school year 1939-40 Wells County and the school taxing units therein received \$5,334 from this source.⁴³²

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7 cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁴³³ Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file with the county superintendent of schools a certificate showing the needs of such township, school town, or school city, and its outstanding debts and accounts.⁴³⁴ The county superintendent of schools forwards the certificate to the State Board of Education,⁴³⁵ and this board and the State Board of Accounts must examine the certificate and decide on the amount to be allotted to the school unit. In connection with the award of such relief funds, the State

⁴²⁹ Acts 1935, 1939; Burns, 1941 suppl., 12-811; Baldwin, 1939 suppl., 3761-40f. Acts 1865, 1893, 1912 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6190.

⁴³⁰ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³¹ Acts 1933; Burns 61-922; Baldwin 15920.

⁴³² *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³³ Acts 1931, ch. 163, sec. 1. Acts 1933; Burns 28-901; Baldwin 6431.

⁴³⁴ Acts 1931, ch. 153, sec. 4. Acts 1933; Burns 28-903; Baldwin 6433. Acts 1933, 1941; Burns, 1941 suppl., 28-906; Baldwin 1941 suppl., 6476.

⁴³⁵ Acts 1931, ch. 163, sec. 5. Acts 1933; Burns 28-904; Baldwin 6434.

Board of Education may require the recipient to make sufficient appropriations, tax levies, and tax rates to liquidate its outstanding debts and accounts as set forth in the certificate aforesaid.⁴³⁶ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.⁴³⁷ Wells County received no aid from this fund for the school year of 1939-40.⁴³⁸

The State has designated certain funds for the advancement of vocational education. Wells County (including Bluffton) received \$5,234.38 for this purpose in the school year 1939-40.⁴³⁹

From 1927 until 1937 any surplus in the county dog fund on the first Monday in March each year, after provision was made for certain disbursements therefrom, was distributed for the schools of the county in the same manner the "common school revenue of such county" was distributed. A 1937 law provides that any money in the "State dog account" in excess of \$50,000 remaining after certain annual distributions therefrom must be transferred by the Auditor of State to the "State school revenue fund."⁴⁴⁰ Other available school funds, not otherwise accounted for and including such items as school transfers, sale of school property, donations etc., are known as "miscellaneous revenue receipts," from which Wells County received \$849.28 for the school year 1939-40.⁴⁴¹

The total amount received by Wells County (including Bluffton) to be used for school purposes from all the above mentioned sources for the school year 1939-40 was \$105,261.86.⁴⁴²

⁴³⁶ Acts 1931, ch. 163, sec. 6. Acts 1933; Burns 28-905; Baldwin 6435. Acts 1933, 1941; Burns, 1941 suppl., 28-906; Baldwin, 1941 suppl., 6436.

⁴³⁷ Acts 1933, 1935; Burns, 1941 suppl., 28-907; Baldwin, 1935 suppl., 6437. Op. Atty. Gen. 1939, p. 197.

⁴³⁸ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴³⁹ Acts 1913, 1919; Burns 28-4902; Baldwin 6448. *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴⁴⁰ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1935, ch. 271, sec. 4. Acts 1937; Burns, 1941 suppl., 16-326, 16-327; Baldwin, 1937 suppl., 3811-10, 3811-11. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1935).

⁴⁴¹ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 38.

⁴⁴² *Id.*

The school cities, towns, and townships may levy property taxes and poll taxes⁴⁴² for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁴⁴⁴ to enforce compulsory education and keep poor children in school;⁴⁴³ to provide free textbooks;⁴⁴⁶ to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁴⁴ establishment of vocational schools;⁴⁴ and for the retirement of school bonds.⁴⁴⁵ Local taxation produced \$207,706.22 for educational purposes in Wells County (including Bluffton) in the school year 1939-40.⁴⁵⁰

ORGANIZATION

There are two major types of school organizations: (a) County schools; and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools are operated in a similar manner by school boards composed of three members appointed by the board of town trustees or the city council, respectively.⁴⁵¹ All public schools are under the control of the Legislature. Local government units act only as legislative agencies in the operation of schools.⁴⁵²

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the State Superintendent of Public Instruction and the State Board of Education. He has no supervision of city or town schools.⁴⁵²

⁴⁴⁰ Acts 1-10; Burns 64-104, Baldwin 5214.

⁴⁴¹ Acts 1-10, 1-12, 1-17, 1-18; Burns 64-101, Baldwin 6412.

⁴⁴⁵ Acts 1-10; Burns 2-511, Baldwin 6016.

⁴⁴⁶ Acts 1-10, Burns, 1911 suppl., 3 624, 2 6 8, 2 6 9, Baldwin, 1935 suppl., 6677-1.

6677-5, 6677-6.

⁴⁴⁷ Acts 1-10; Burns 2-4424, Baldwin 444.

⁴⁴⁸ Acts 1-10, 1-12, Burns 2-4424; Baldwin 6418.

⁴⁴⁹ Acts 1-10; Burns, 1911 suppl., 23 72, Baldwin, 1937 suppl., 6677-11.

⁴⁵⁰ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 21, 28.

⁴⁵¹ Acts 1-10, 1-12, 1-17, Burns 2-4424; Baldwin 6412.

⁴⁵² *Anderson v. Board of Education*, 114 Ind. 102, 7 N. E. (d) 531, 913, 7 N. E. (2d) 777, 13 N. E. (2d)

955 (1919).

⁴⁵³ Acts 1-10, 1-12, 1-17, Burns 2-4424, 2-4425, Baldwin 5411, 5428, 5910. State ex

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁴⁵⁴

The local school systems are closely supervised by the State Board of Education, with the State Superintendent of Public Instruction as its administrative head.⁴⁵⁵ One of the most important functions of the State Board of Education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.⁴⁵⁶ The State Board of Education provides for the inspection of schools,⁴⁵⁷ adopts a uniform series of textbooks,⁴⁵⁸ and prescribes an accredited course of instruction for teacher training.⁴⁵⁹

Except as otherwise provided hereinafter, every child between the age of 7 and 16 years must attend "public school or other school taught in the English language which is open to the inspection of local and State attendance and school officers;" and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of the

rel. *Nebeker v. Satten*, 99 Ind. 300 (1884), *State ex rel. Drummond v. Dillon*, 105 Ind. 65, 25 N. E. 126 (1890). See the essay entitled "County Superintendent of Schools."

⁴⁵⁴ Acts 1873, 1877; Burns 28-401, Baldwin 5453. Information obtained from Grover Van Duyn, Assistant State Superintendent of Public Instruction, on July 26, 1939, by W. Davis Hamilton. See the essay entitled "County Board of Education."

⁴⁵⁵ Acts 1866, Burns 28-401, 28-402; Baldwin 5450-5451. Acts 1913; Burns 28-401; Baldwin 5966. Acts 1907; Burns, 1901 suppl., 78-401a; Baldwin, 1939 suppl., 78-6-1.

⁴⁵⁶ Acts 1866, Burns 28-401, Baldwin 5450. Acts 1897, Burns 28-401 to 28-427; Baldwin 5912 to 5928.

⁴⁵⁷ Acts 1921, Burns, 28-401, 28-402, Baldwin 6049, 6050.

⁴⁵⁸ Acts 1866, 1867, 1877, Burns 28-403, Baldwin 5452.

⁴⁵⁹ Acts 1867, Burns 28-428, Baldwin 5926.

compulsory attendance law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the State correctional schools (Indiana Boys' School and Indiana Girls' School).⁴⁶⁰

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them. These schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.⁴⁶¹ Colored schools are represented on the State Board of Education by the required presence of one member of the negro race.⁴⁶²

In 1913 the General Assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the State Board of Education, and are maintained by the regular school funds or by a special tax levy.⁴⁶³ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁴⁶⁴

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than 1½ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more

⁴⁶⁰ Acts 1901, 1913, 1919, 1925, 1927. Burns, 1941 suppl. 9-1801; Baldwin, 1937 suppl., 1769. Acts 1907, 1908, 1917, 1919; Burns 9-2211; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6638. Op. Atty. Gen. 1919, p. 322.

⁴⁶¹ Acts 1869 (Spec. Sess.), 1877, 1937; Burns, 1941 suppl., 28-504; Baldwin, 1935 suppl., 6012.

⁴⁶² Acts 1907; Burns, 1941 suppl., 28-4013; Baldwin, 1939 suppl., 1106-1.

⁴⁶³ Acts 1913, 1919; Burns 28-1102; Baldwin 6148.

⁴⁶⁴ Acts 1913, 1919; Burns 28-1103; Baldwin 6149.

than $\frac{1}{2}$ mile outside the corporate limits of the town or city in which the consolidated school is located.⁴⁶⁵

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁴⁶⁶ Public health services are administered in Wells County by a part-time county health officer and a full-time public health nurse. They are appointed by the board of commissioners, subject to approval by the State Board.⁴⁶⁷ The State Board of Health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁴⁶⁸

The educational facilities offered by the State Board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These facilities may be obtained from the Bureau of Health and Physical Education, the Bureau of Communicable Diseases, and the Bureau of Venereal Diseases.⁴⁶⁹

The State Board of Health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.⁴⁷⁰

⁴⁶⁵ Acts 1917, 1921; Burns 28-1220, 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1941 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1941 suppl., 28-2802; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927, Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1941 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. Op. Atty. Gen. 1939, pp. 25, 74, 91, 266.

⁴⁶⁶ Acts 1891, 1909; Burns 35-105, 35-106, Baldwin 8390, 8391.

⁴⁶⁷ Acts 1935; Burns, 1941 suppl., 35-118, 35-123, Baldwin, 1935 suppl., 8404-1, 8404-6. See the essay entitled "County Health Officer."

⁴⁶⁸ Acts 1921; Burns 22-203; Baldwin 4141. Acts 1919; Burns 35-214; Baldwin 8428. Acts 1905; Burns 35-302; Baldwin 8394.

Test for rabies. Acts 1935; Burns, 1941 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

⁴⁶⁹ Acts 1891, 1909; Burns 35-106, Baldwin 8-91. Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on August 17, 1939, by W. Davis Hamilton.

⁴⁷⁰ Acts 1907, 1919, 1929, 1935, 1939, Burns, 1941 suppl., 35-701 to 35-703, 35-710, 35-712, Baldwin, 1935 suppl., 13392 to 13394, 13395-1, Baldwin, 1939 suppl., 13395-2.

Health laws provide that public water supplies must be inspected by the State Board of Health;⁴⁷¹ that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁴⁷² that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;⁴⁷³ that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁴⁷⁴

Food and drug products are inspected in the State laboratory for adulteration or misbranding.⁴⁷⁵ Dairy products are tested for butter fat content and weight.⁴⁷⁶

Contagious diseases must be reported to the State Board and properly quarantined by the health officer.⁴⁷⁷ All cases of tuberculosis⁴⁷⁸ and leprosy must be reported to the State Board of Health as soon as they are diagnosed. The State Board has jurisdiction to direct the care and disposition of lepers.⁴⁷⁹

All birth certificates must show that the attendant at such birth took the proper precautions to prevent opthalmia neonatorum (the disease causing infant blindness).⁴⁸⁰ If an infant's eyes show any sign of infection within 2 weeks after the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.⁴⁸¹

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate,

⁴⁷¹ Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁴⁷² Acts 1909; Burns 35-1001, 35-1009; Baldwin 8504, 8512. Acts 1919; Burns 35-1101, 35-1103; Baldwin 8514, 8516.

⁴⁷³ Acts 1917; Burns 35-1801; Baldwin 8563.

⁴⁷⁴ Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁴⁷⁵ Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 28.

⁴⁷⁶ Acts 1913; Burns 35-1301; Baldwin 8455.

⁴⁷⁷ Acts 1903; Burns 35-401, 35-407; Baldwin 8531, 8533.

⁴⁷⁸ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁴⁷⁹ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

⁴⁸⁰ Acts 1911; Burns 35-901; Baldwin 8558.

⁴⁸¹ Acts 1911; Burns 35-903; Baldwin 8560.

the physician must have a blood specimen of the applicant examined by the laboratory of the State Board of Health or a laboratory approved by the Board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."⁴⁸²

The county health officer enforces the State health laws and the regulations of the State Board of Health; promotes health education; collects vital statistics; makes periodic reports to the State Board of Health; and keeps records of these reports in his record books.⁴⁸³

Wells County has a county hospital. It was established in 1918, is officially known as the Wells County Hospital, and is located "on South Main Street in Bluffton."⁴⁸⁴

VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the Bureau of Vital Statistics of the State Board of Health.⁴⁸⁵ The county health officer makes the collection of local data on forms supplied by the State Board of Health, and periodically delivers reports of all records to the State Board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁴⁸⁶ Physicians must report certain communicable diseases direct to the State Board of Health.⁴⁸⁷

All birth reports are to be made to the health officer within 36 hours after birth. Stillbirths of 7-months gestation and over are reported as births and deaths. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living

⁴⁸² Acts 1909, Burns, 1911 suppl., 41-213, Baldwin, 1919 suppl., 562-41.

⁴⁸³ Acts 1909, Burns, 1911 suppl., 35-198, 35-123, 35-124, Baldwin, 1922 suppl., 6094-1, 8404-5, 8404-6.

⁴⁸⁴ Acts 1917, 1919, 1921, 1925, 1927, Burns 22-118, Baldwin 4517. Acts 1903, 1939; Burns, 1941 suppl., 249-91, Baldwin, 1929 suppl., 4007.

⁴⁸⁵ Acts 977, 1927, Burns 2-118, Baldwin 6985.

⁴⁸⁶ Acts 1981, ch. 19, sec. 11. Acts 1981, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8798.

⁴⁸⁷ State Board of Health, *Code of Instructions to Agents of the Bureau*, Rule 10, p. 13.

child; and if he thereafter dies, his birth and death must be reported and recorded.⁴⁸⁹

An act of 1939, effective January 1, 1940, requires each birth report to state whether a test for syphilis was made of the mother during pregnancy or at delivery. If such test was made the date must be shown but not the result.⁴⁸⁹

An act of 1941 provides that any person who has been a bona fide resident of a county, in Indiana for more than one year (such residence to be proved by testimony of two householders of the county) may apply to the circuit court or superior court of such county to establish the time and place of his birth; that on the filing of his application the clerk must give public notice thereof by publication one time in a newspaper of general circulation; that the court must hear such application without a jury and may make an order declaring the time and place of applicant's birth; that the clerk must enter the order in a separate record to be known as the "birth certificate record" and must keep an index thereto; that a copy of the order, to be furnished by the clerk, is prima facie evidence of the time and place of birth; and that the cost of publication must be paid by the applicant but no other costs may be charged against him.⁴⁹⁰

Another act of 1941 provides that when a judgment establishes the paternity of a child born out of wedlock, the clerk of the court must immediately prepare and transmit to the city or county health officer having the child's birth record a certified statement showing the name of the child, the date and place of its birth, the name and residence of its parents, and any additional information required by the State Board of Health. The health officer must immediately record the statement in a manner prescribed by the State Board and transmit it to the State Board for permanent filing. The fact that the child was born out of wedlock must not be disclosed except on order of a court when such fact is required for the determination of personal or property rights.⁴⁹¹

Another act of 1941 provides that when a decree of adoption is rendered, the clerk must transmit to the State Department of Public Welfare and to the officer having the

⁴⁸⁸ Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. State Board of Health, *op. cit.*, Rule 4, p. 10.

⁴⁸⁹ Acts 1939, Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2.

⁴⁹⁰ Acts 1941; Burns, 1941 suppl., 3-2901 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

⁴⁹¹ Acts 1941; Burns, 1941 suppl., 3-619, Baldwin, 1941 suppl., 5699-27.

child's original birth record a certificate of adoption, signed by the judge, which must contain the full adopted name of the child, the date of its birth, the names and exact place of residence of the adopting parents, the name of the court, and the date of the decree. The former name of the adopted child must be omitted if the child is illegitimate or if the judge is of the opinion that such omission would be for the best interest of the child. If the original birth record of the child is in Indiana, the officer in charge thereof must record the certificate, retain the original birth record, and upon request must issue a birth certificate for such child showing the child's new name, its sex and date of birth, and the names of its foster parents, with no indication of the adoption or illegitimacy.⁴⁹²

Deaths are reported as soon as possible, because a body may not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the State regardless of the county in which the permit is issued. When a death occurs outside the State, and the body is brought into the State for interment, the burial permit must be based on the transportation permit, and no record of the death is required.⁴⁹³ The burial permit is preserved with the records of the cemetery.⁴⁹⁴

Certified copies of the official records of births and deaths are furnished by the county health officer or the State Board of Health on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.⁴⁹⁵

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the State Board of Health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to

⁴⁹² Acts 1941; Burns, 1941 suppl., 3-125; Baldwin, 1941 suppl., 5699-44.

⁴⁹³ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule

3, p. 9.

⁴⁹⁴ Acts 1939; Burns, 1941 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁴⁹⁵ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will furnish a certified copy thereof on request of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.⁴⁹⁶

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the State Board of Health.⁴⁹⁷

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the State Board of Health as required by the board.⁴⁹⁸

No law requires the keeping of divorce records separate from other records of other judgments; and no law requires the reporting or compiling of divorce statistics. A certified copy of a divorce decree rendered in a divorce suit in the county may be obtained from the clerk of the circuit court.

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.⁴⁹⁹

A recipient of old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the State for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National institution; and, within the 5 years immediately before his application, must not have transferred his property to render himself eligible for assistance.⁵⁰⁰ He must reveal all property and income

⁴⁹⁶ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. State Board of Health, *op. cit.*, Rule 5, p. 11.

Injunction against illegal issuance of license. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

⁴⁹⁷ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 6, p. 11.

⁴⁹⁸ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

⁴⁹⁹ See the essay entitled "County Department of Public Welfare."

⁵⁰⁰ Acts 1936, (Spec. Sess.); 1937; Burns, 1941 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

in which he has an interest.⁵⁰¹ After an investigation the county department may grant him assistance, never exceeding \$40 a month.⁵⁰²

A blind person (his better eye having a disqualifying visual field defect or vision of not more than 20/200 with correcting glasses), in order to receive State assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the State or have lived in the State 5 of the last 9 years, the last year continuously; must be in need; must not be an inmate of a municipal, State, or National institution; must not have transferred his property within the 5 years immediately before his application for the purpose of rendering himself eligible for assistance; and must not solicit alms while receiving assistance.⁵⁰³ The amount he receives is determined by the county department after an investigation of his needs⁵⁰⁴ and never exceeds \$40 a month⁵⁰⁵ except as temporary assistance is given for treatment of his eyes.⁵⁰⁶ Blind children may be sent to the school for the blind near Indianapolis.⁵⁰⁷

A dependent child must have lived in the State 1 year preceding his application for assistance or have been born within the State during the year, his mother having resided in the State 1 year before his birth.⁵⁰⁸ The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.⁵⁰⁹ A destitute child (needy but not a public ward)⁵¹⁰ may receive as much as \$23 a month.⁵¹¹

⁵⁰¹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35

⁵⁰² Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1203; Baldwin, 1941 suppl., 14078-34.

⁵⁰³ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1201, 52-1221; Baldwin, 1937 suppl., 14078-1, 14078-52.

⁵⁰⁴ Acts 1936 (Spec. Sess.) Burns, 1941 suppl., 52-1225, 52-1227; Baldwin, 1937 suppl., 14078-56, 14078-58.

⁵⁰⁵ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1223; Baldwin, 1941 suppl., 14078-54.

⁵⁰⁶ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1256; Baldwin, 1937 suppl., 14078-67.

⁵⁰⁷ Acts 1865; Burns 22-601 *et seq.*; Baldwin 4260 *et seq.*

⁵⁰⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1230, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

⁵⁰⁹ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72.

⁵¹⁰ Acts 1937; Burns, 1941 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁵¹¹ Acts 1866 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1269; Baldwin, 1937 suppl., 14078-

and is eligible for any other relief he may require.⁵¹² Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.⁵¹³ Diseased and defective children may be placed in a public hospital by the county department or the judge of the circuit court.⁵¹⁴ Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.⁵¹⁵

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing *in loco parentis* to the child, except pursuant to a court order.⁵¹⁶ Persons receiving aid under the Welfare Act are ineligible for other public relief.⁵¹⁷ Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy or insolvency proceedings.⁵¹⁸

When a recipient of welfare assistance moves to another county in the State with the approval of the State Department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.⁵¹⁹

If an aged or blind person entitled to assistance under the Welfare Act is unable to care for himself, the county

⁵¹² Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1278; Baldwin, 1937 suppl., 14078-97L.

⁵¹³ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

⁵¹⁴ Acts 1933; Burns 52-501; Baldwin 5700. Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1241; Baldwin, 1941 suppl., 14078-72.

⁵¹⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1104 (c); Baldwin, 1937 suppl., 14078-5 (c). Information obtained from Thurman A. Gottschalk, chief administrator of the State Department of Public Welfare, on December 11, 1939, by W. Davis Hamilton.

Validity of regulations as to bringing nonresident children into the State for care by resident families. Op. Atty. Gen. 1919, p. 264.

⁵¹⁶ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1247; Baldwin, 1937 suppl., 14078-130.

⁵¹⁷ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

⁵¹⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

⁵¹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

department pays his relief money to some responsible person for his benefit.⁵²⁰ If a blind or aged recipient of assistance dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).⁵²¹

An appeal may be taken from the county department to the State Department of Public Welfare.⁵²² Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.⁵²³

The county maintains an asylum for the poor, which is separate from the welfare department.⁵²⁴ Pauper residents of the county may be placed therein by township trustees.⁵²⁵ Nonresident paupers may be kept there temporarily.⁵²⁶ The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.⁵²⁷

Township poor relief is administered by each township trustee.⁵²⁸ He may require able-bodied indigents receiving assistance to do needed governmental work.⁵²⁹ Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners⁵³⁰ and to an appeal from

⁵²⁰ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39; 14078-60.

⁵²¹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. Op. Atty. Gen. 1939, p. 179.

⁵²² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁵²³ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

Parent's duty to support child. Huff v. Merchants Parcel Delivery Co., 106 Ind. App. 110, 18 N. E. (2d) 471 (1939).

⁵²⁴ Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁵²⁵ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1941 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

⁵²⁶ Acts 1935; Burns, 1941 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁵²⁷ Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

⁵²⁸ Acts 1935, 1939; Burns, 1941 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1941 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 1330-39. Op. Atty. Gen. 1940, p. 46.

⁵²⁹ Acts 1935, 1941; Burns, 1941 suppl., 52-152, Baldwin, 1941 suppl., 13320-9.

⁵³⁰ Acts 1935; Burns, 1941 suppl., 52-160, Baldwin, 1935 suppl., 13320-17.

that board to the circuit court.⁵³¹ The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.⁵³²

PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.⁵³³ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁵³⁴ The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁵³⁵

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁵³⁶ and bridges.⁵³⁷ Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting

⁵³¹ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁵³² Acts 1935, 1939; Burns, 1941 suppl., 52-804, 52-603, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin, 1939 suppl., 13359-7.

⁵³³ 1 Rev. Stat. 1852, Acts 1955; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁵³⁴ Acts 1899; Burns 26-524; Baldwin 5799.

⁵³⁵ Acts 1907; Burns 26-2008; Baldwin 5107.

⁵³⁶ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1903; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8704 *et seq.*

Budget estimates. Bateman v. State, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

⁵³⁷ Acts 1905, 1907, 1929, Burns 36-1901; Baldwin 92-6. Acts 1905, 1911, 1913; Burns 26-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 35-2401 *et seq.*; Baldwin 9151 *et seq.*

the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved; a contract for the work is let; and the damages are paid.⁵³⁸ In some instances, bonds may be issued for the construction of roads⁵³⁹ and bridges,⁵⁴⁰ and special assessment liens charged against the land benefited by the road.⁵⁴¹

State highways are those roads which have been officially designated as State highways by the State Highway Commission with the approval of the Governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with State and Federal funds under the supervision of the State Highway Commission. Roads not so designated as State highways, and those so designated and thereafter abandoned by the State, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.⁵⁴² The county may render financial assistance to the State Highway Commission in the construction or maintenance of any State highway or bridge

⁵³⁸ See the citations in the two preceding footnotes.

⁵³⁹ Acts 1905; Burns 36-1708; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1941 suppl., 26-332; Baldwin, 1937 suppl., 8859-1.

⁵⁴⁰ Acts 1910 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1941 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

⁵⁴¹ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921, Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁵⁴² Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1941 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1937; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8661, 8700. Acts 1912 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1941 suppl., 36-2404, 36-2406; Baldwin, 1939 suppl., 8685-4, 8685-6. Acts 1937; Burns, 1941 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8686-11, 8686-12, 8686-19, 8686-20. Acts 1919; Burns, 1911 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1952 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require much payment. Board of County Commrs. v. Farmers State Bank of Eaton, 104 Ind. App. 602, 10 N. E. (2d) 703 (1937).

Private road becoming a public road after public use for 20 years. Acts 1905, Burns 36-1807; Baldwin 8770. Switzer v. Armantrout, 106 Ind. App. 468, 10 N. E. (2d) 658 (1939).

located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁵⁴³

Expenses incurred in the maintenance of county roads may be paid only from funds received by the county from the motor vehicle highway account of the State, except that taxes may be levied for such purpose by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁵⁴⁴

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁵⁴⁵

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.⁵⁴⁶ He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.⁵⁴⁷ Between January 1 and April 1 each year the highway supervisor is required to examine hedge fences and other obstructions of view near county roads, and to cause the trimming or removal of any such obstructions which violate the laws.⁵⁴⁸ Weeds must be cut and removed from the rights-of-way of county roads each year between June 15 and September 1.⁵⁴⁹

The board of commissioners has power to make suitable rules and regulations covering traffic on county roads, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.⁵⁵⁰ The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.⁵⁵¹

⁵⁴³ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁵⁴⁴ Acts 1932 (Spec. Sess.), ch. 16, sec. 5. Acts 1937, ch. 135, secs. 3, 6. Acts 1939, ch. 61, sec. 1. Acts 1941, ch. 168, secs. 3, 4, 8. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

⁵⁴⁵ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁴⁶ Acts 1933; Burns 36-1102, 36-110; Baldwin 8700, 8708.

⁵⁴⁷ Acts 1933; Burns 36-1103; Baldwin 8707.

⁵⁴⁸ Acts 1891, 1921, 1933. Burns 30-301, 30-302; Baldwin 7617, 7648.

⁵⁴⁹ Acts 1939; Burns, 1941 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

⁵⁵⁰ Acts 1909; Burns 36-706; Baldwin 8899. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

⁵⁵¹ Acts 1933; Burns 36-1102, 36-110; Baldwin 8700, 8708. Information obtained from T. A. Dicus, chairman of the State Highway Commission, on December 29, 1939, by W. Davis Hamilton.

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁵⁵²

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the State any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.⁵⁵³

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.⁵⁵⁴

County buildings not needed by the courts or for county business may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁵⁵⁵ or to private persons or corporations for a term not exceeding 5 years.⁵⁵⁶

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁵⁵⁷ The board may erect soldiers' monuments,⁵⁵⁸ memorial buildings, auditoriums, and coliseums.⁵⁵⁹ A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.⁵⁶⁰ A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may

⁵⁵² 1 Rev. Stat. 1872; Burns 27634; Baldwin 5240.

⁵⁵³ Acts 1877, 1878 (Spec. Sess.); Burns 26721 to 26730; Baldwin 5165 to 5174.

⁵⁵⁴ Acts 1873; Burns, 111 suppl., 26701; Baldwin, 1875 suppl., 5210-1.

⁵⁵⁵ Acts 1880; Burns 26181 to 26184; Baldwin 5171 to 5174.

⁵⁵⁶ Acts 1870; Burns 26185 to 26190; Baldwin 5155 to 5160.

⁵⁵⁷ Acts 1873, 1874; Burns 26191 to 26196; Baldwin 5166 to 5170.

⁵⁵⁸ Acts 1877, 1881; Burns 26191; Baldwin 5238.

⁵⁵⁹ Acts 1871; Burns 26177; Baldwin 5172.

⁵⁶⁰ Acts 1880; Burns 26197; Baldwin 6063. Acts 1913; Burns 28306 to 28311; Baldwin

be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.⁵⁶¹

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁵⁶² after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.⁵⁶³

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.⁵⁶⁴ The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.⁵⁶⁵ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁵⁶⁶ After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.⁵⁶⁷

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.⁵⁶⁸

⁵⁶¹ Acts 1933; Burns, 1941 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

⁵⁶² Acts 1899; Burns 26-525; Baldwin 5289.

⁵⁶³ Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

⁵⁶⁴ Acts 1933; Burns 27-101, 27-109, 27-116, 27-131; Baldwin 5740, 5745, 5752, 5770. Penn v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁵⁶⁵ Acts 1933; Burns 27-108; Baldwin 5744.

⁵⁶⁶ Acts 1903; Burns 27-122; Baldwin 5758.

⁵⁶⁷ Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. Penn v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

Proceedings to collect drainage assessment liens cannot be commenced until 5 years after creation of lien. Marshall v. Watkins, 106 Ind. App. 235, 18 N. E. (2d) 954 (1939).

Effect of moratorium tax law. *Ibid.*

⁵⁶⁸ Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775, 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

The law requires that open ditches be cleaned out and repaired biennially; that weeds, willows, and debris be removed therefrom annually; and that public tile drains be repaired whenever necessary.⁵⁶⁹

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.⁵⁷⁰

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.⁵⁷¹ If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁵⁷² The board may acquire land to convey to the State for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the Governor and the director of the State Department of Conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁵⁷³

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.⁵⁷⁴ Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁵⁷⁵ A gift of lands to the

⁵⁶⁹ Acts 1911, ch. 63, secs. 1-3. Acts 1933, 1935, 1941, Burns, 1941 suppl., 27-203; Baldwin, 1941 suppl., 577. Acts 1933, 1936; Burns, 1941 suppl., 27-210; Baldwin, 1935 suppl., 574. Acts 1909; Burns, 1941 suppl., 27-232; Baldwin 19-9 suppl., 544-9. Op. Atty. Gen. 1939, p. 292.

⁵⁷⁰ Acts 1907, Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

⁵⁷¹ Acts 1923, 1927; Burns 26-1001; Baldwin 5199.

⁵⁷² Acts 1927, Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁵⁷³ Acts 1927, Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

⁵⁷⁴ Acts 19-9; Burns 32-101; Baldwin 4875.

⁵⁷⁵ Acts 19-9, 1927, Burns, 1941 suppl., 32-102; Baldwin, 1945 suppl., 4876.

county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁵⁷⁶ Any aggrieved taxpayer may appeal to the circuit court.⁵⁷⁷

Swamplands, saline lands, and meander lands, owned by the State, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.⁵⁷⁸

The board may permit county lands within 1½ miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.⁵⁷⁹

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds,⁵⁸⁰ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁵⁸¹

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.⁵⁸²

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁵⁸³ subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,⁵⁸⁴ and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.⁵⁸⁵

AGRICULTURE

The Constitution provides that improvement of agriculture shall be encouraged.⁵⁸⁶ Allowances may be made out

⁵⁷⁶ Acts 1929; Burns 32-106; Baldwin 4879.

⁵⁷⁷ Acts 1929, 1935; Burns, 1941 suppl., 32-109; Baldwin, 1936 suppl., 488-1.

⁵⁷⁸ Acts 1929; Burns 61-217 to 62-225; Baldwin 15260 to 15268.

⁵⁷⁹ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

⁵⁸⁰ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁵⁸¹ Acts 1873; Burns 26-1519; Baldwin 5332.

⁵⁸² Acts 1910 (Spec. Sess.), 1921; Burns 14-301 to 14-305; Baldwin 4021, 7991, 4023 to 4026.

⁵⁸³ 1 Rev. Stat. 1852; Burns 25-1521, Baldwin 10000.

⁵⁸⁴ Acts 1905; Burns 48-6003; Baldwin 12665.

⁵⁸⁵ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211, Baldwin 4626, 4627.

⁵⁸⁶ Const. 1851, art. 8, sec. 1.

of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁵⁸⁷

Wells County has a county agricultural agent for the improvement of agriculture and rural life. The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, and farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' club and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.⁵⁸⁸

RECORDS SYSTEM

The records of Wells County began with its creation in 1837. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the General Assembly under the provisions for each office.

In 1909 the Legislature established the State Board of Accounts, which formulates, prescribes, and installs systems of accounting and financial reporting which are uniform for every public office of the same class.⁵⁸⁹ Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.⁵⁹⁰

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting

⁵⁸⁷ Acts 1377; Burns 15-311, Baldwin 5333.

⁵⁸⁸ U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1913, 1923, 1927, 1927, Burns, 1941 suppl., 28-4911; Baldwin, 1927 suppl., 6457. Acts 1931; Burns 28-5627; Baldwin 6475. See the essay entitled "County Agricultural Agent"

⁵⁸⁹ Acts 1909, Burns 60-202, 60-224; Baldwin 13855, 13875.

⁵⁹⁰ Information obtained from E. P. Brennan, State Examiner, on February 28, 1940 by W. Davis Hamilton

system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the State Board of Accounts.⁵⁹¹ No system has been established in Wells County under authority of this law.⁵⁹²

The State Board of Health,⁵⁹³ State Board of Education,⁵⁹⁴ State Probation Department,⁵⁹⁵ State Department of Public Welfare,⁵⁹⁶ State Board of Tax Commissioners,⁵⁹⁷ and the agricultural extension department of Purdue University prescribe forms of records and reports for county boards and officials over whom they have supervision.⁵⁹⁸

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.⁵⁹⁹

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the Governor a certified list of such records furnished by the State, and he must order the proper State officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to duplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁶⁰⁰

⁵⁹¹ Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁵⁹² Information obtained from E. P. Brennan, State Examiner, on January 21, 1940, by William E. Chambers.

⁵⁹³ See the essay entitled "County Health Officer."

⁵⁹⁴ See the essay entitled "County Superintendent of Schools."

⁵⁹⁵ See the essay entitled "County Probation Officer."

⁵⁹⁶ See the essay entitled "County Department of Public Welfare."

⁵⁹⁷ Acts 1919, 1921; Burns 64-1309; Baldwin 15713. Acts 1919; Burns 64-2803; Baldwin 15866.

⁵⁹⁸ See the essays entitled "County Agricultural Agent."

⁵⁹⁹ Acts 1877; Burns 26-634; Baldwin 5339

⁶⁰⁰ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

An act of 1925 permits county officials, at their discretion, to turn over to the Archives Division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.⁶⁰¹ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provides that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.⁶⁰² The photographic method of recording has never been used generally by any Wells County officer.

In 1937 the General Assembly authorized the director of the State Library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the State Archives. All public officials must permit such copies to be made.⁶⁰³

In 1939 the Legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the

⁶⁰¹ Acts 1925, 1927, Burns, 1941 suppl., 2832, Baldwin, 1927 suppl., 10267.

⁶⁰² Acts 1927, Burns 49229, Baldwin 14667.

⁶⁰³ Acts 1925, 1927, Burns, 1941 suppl., 68420, Baldwin, 1927 suppl., 10287.

office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library while those of class (d) will constitute a part of the "collection" of such Library.⁶⁰⁴

An act of 1935 created, in the executive department of the State, a "Commission on Public Records," consisting of the Governor, Secretary of State, State Examiner, director of the State Library, and director of the Historical Bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except as to the provisions concerning the personnel of the commission.⁶⁰⁵

It is provided by law that whoever, being an officer or his deputy, having the custody of any record, book, document, paper, or proceeding pertaining to or filed with any court of record or county office or officer, feloniously steals or fraudulently takes away, secretes, withdraws, or destroys the same shall on conviction be imprisoned in the State Prison not less than 2 years nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;⁶⁰⁶ that whoever maliciously, mischievously, or fraudulently alters, defaces, injures, mutilates, or destroys the whole or any part of such record or document shall on conviction be imprisoned in the State Prison not less than 6 months nor more than 14 years, fined not exceeding \$1,000, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period;⁶⁰⁷ that any public official or person who destroys any public record without specific written authority from the commission of public records shall on conviction be fined not less than \$10 nor more than \$500;⁶⁰⁸ and that any county recorder who

⁶⁰⁴ Acts 1930; Burns, 1941 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

⁶⁰⁵ Acts 1935; Burns, 1941 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15460-1 to 15460-10. Op. Atty. Gen. 1939, p. 259.

⁶⁰⁶ Acts 1905; Burns 10-3001, 10-3005; Baldwin 2459, 2460.

⁶⁰⁷ Acts 1905; Burns 10-4514; Baldwin 2461.

⁶⁰⁸ Acts 1939; Burns, 1941 suppl., 49-3708, 49-3710; Baldwin, 1939 suppl., 5492-8, 5492-10.

violates the law requiring immediate entry of certain satisfactions, cancelations, and assignments in his entry book shall be subject to a penalty of \$5 for each such violation, to be recovered in a civil action brought by the prosecuting attorney.⁶⁰⁹

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first courthouse constructed in Wells County was authorized by the board of commissioners at a meeting on June 18, 1838. Construction costs of \$193.50 were approved, and Kennedy Whitman selected as contractor. The structure, a two-story building 18 by 24 feet in size, was built of hewn logs one foot square, and the roof of oak boards 3 feet wide. All of the first floor, which had one oak door on the west and two 12-pane windows on the north and south sides, was used for the county officials. In the southeast corner of the first floor an oak stairway led to the second floor, which was used for the holding of court and the judge's office.¹ This building was in use until it was destroyed by fire, and on April 24, 1843, a contract for the second courthouse—to cost \$5,000—was awarded to Almon Case, who in turn sold his contract to George W. Webster of Marion, Indiana.²

The second courthouse, a two-story structure with four colonial type columns adorning the facade on the east, was built of brick manufactured in Bluffton.³ Shortly after the building was completed in 1845, the increase in county business made it necessary to build auxiliary buildings near the courthouse for the storage of records.

At the February term of court in 1888, Judge Henry Saylor condemned the second courthouse as unfit for occupancy,⁴ and on March 12, 1889, Christina Boseker of Fort Wayne, Indiana was awarded a contract for the construction of the present courthouse at a cost of \$119,879.

The main (north) entrance to the present building faces Market Street, and the east entrance faces Main Street. Built

⁶⁰⁹ Acts 1905; Burns 49-3203, 49-3204; Baldwin 5472, 5473.

¹ Commissioners' Record, vol. A, p. 21, see entry 2.

² *Ibid.*, p. 227.

³ *Ibid.*, p. 228.

⁴ *Bluffton Evening News-Banner*.

largely of Stony Point sandstone, the building is 83 by 126 feet in area, is two stories high, and has a clock tower at the northeast corner rising to a height of 135 feet. The slate roof, above the attic, is gabled and is supported by iron girders. All of the woodwork throughout the building is quarter-sawed oak, and most of the floors are of tile or composite material. Although the building is 50 years old, it is in good condition, and is considered approximately 75% fireproof.

The first jail in Wells County was ordered constructed at the same time as the first courthouse, and Kennedy Whitman was also awarded the contract. Constructed of foot-square hewn logs, the building was a two-story structure 18 by 20 feet.⁵ This building suffered the same fate as did the original courthouse, and after completion of the second courthouse, a room was temporarily set aside therein for the incarceration of law violators.⁶ On September 6, 1855 George McDowell was awarded the contract for the construction of the second jail at a cost of \$4,963.50.⁷ No other information concerning this building is to be found, except that it was located on the public square immediately south of the courthouse, and was in use until completion of the present jail and sheriff's residence on January 1, 1881. The present structure cost approximately \$21,400, and Jonathan P. Smith was the contractor.

The present jail and sheriff's residence, located at the corner of Washington and Johnson Streets, is a two-story building 44 by 80 feet in size, with a pinnacle running to a height of 75 feet. The roof of the building is slate and the walls are of brick lined with boiler iron one-quarter inch thick. All of the front of the building is used as the sheriff's residence, and the rear as the jail, with eight cells on each of two floors. Below the first-floor cell blocks is a dungeon formerly used for incorrigible prisoners.

A room-by-room description of the present housing of county records follows:

Board of Commissioners. Nine percent of the commissioners records are in the attic storage room, 70 percent are in the auditor's office, 4 percent are in the surveyor's office, 16 percent in the commissioners' room, and one percent are in

⁵ Commissioners' Record, vol. A, p. 21.

⁶ *Ibid.*, vol. B, p. 463.

⁷ *Ibid.*, p. 483.

the auditor's record room. Located here are also 72 percent of the highway supervisor's records.

County Council. All of the county council's records are in the auditor's office.

Clerk of the Circuit Court. Forty-two percent of the clerk's records are in the attic storage room, 28 percent are in the clerk's office, and 30 percent are in the clerk's record room. In the clerk's record room are 57 percent of the circuit court records, 3 percent of the registration officer's records, 17 percent of the board of primary election commissioners' records, and 80 percent of the board of canvassers' records. In the clerk's office are 25 percent of the circuit court records, 3 percent of the auditor's records, 45 percent of the registration officer's records, and 20 percent of the board of canvassers' records.

Recorder. Eighteen percent of the recorder's records are in the recorder's office, 2 percent are in the attic storage room, and 80 percent are in the recorder's record room.

Circuit Court. Eighteen percent of the circuit court records are in the attic storage room, 57 percent are in the clerk's record room, 25 percent are in the clerk's office, 1 volume and two file drawers are in the circuit court room, and 3 volumes are in the surveyor's office.

Court of Common Pleas (1853-73). All records of the common pleas court (1853-73) are in the attic storage room.

Sheriff. Eighteen percent of the sheriff's records are in the jail attic, 48 percent are in the attic storage room, and 34 percent are in the sheriff's office.

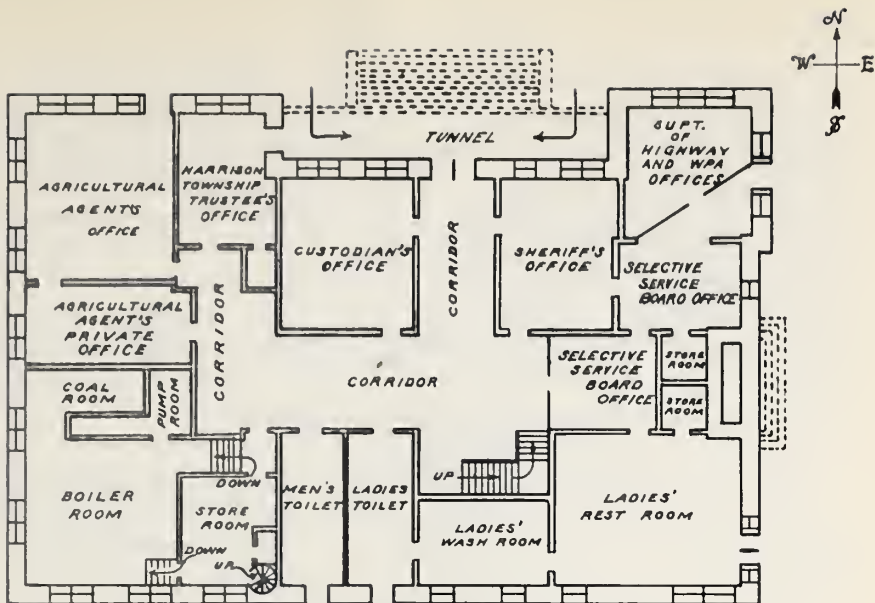
County Assessor. Twenty-nine percent of the assessor's records are in the attic storage room, and 71 percent are in the assessor's office.

County Board of Review. Thirty-three percent of the board's records are in the attic storage room, and 67 percent are in the auditor's storage room.

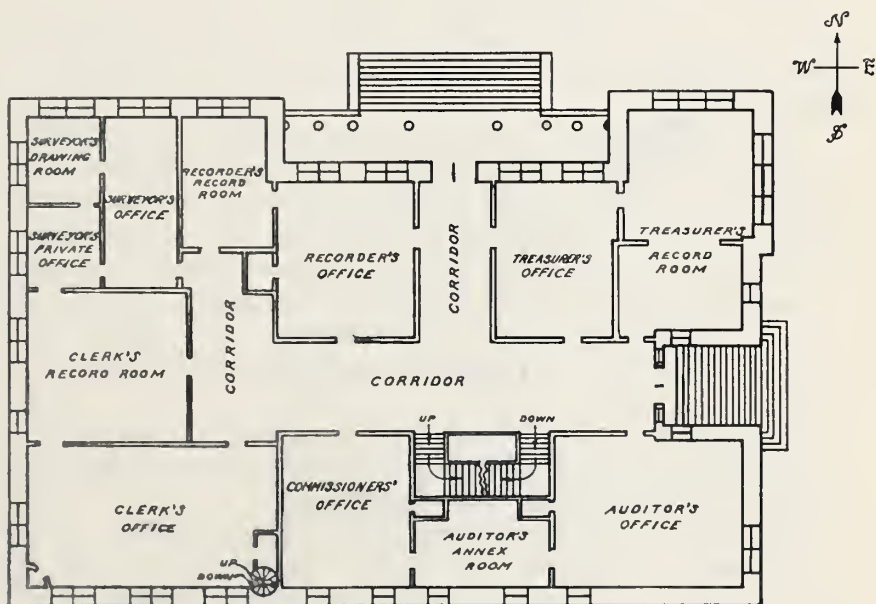
County Board of Tax Adjustment. All records are in the auditor's office.

Board of Finance. All the records are in the auditor's office.

Treasurer. Four percent of the treasurer's records are in the treasurer's office, approximately 70 percent are in the attic storage room, 26 percent are in the treasurer's record room, and 2 volumes are in the auditor's record room. Other records located in the treasurer's office are 24 percent of the auditor's records.



BASEMENT, WELLS COUNTY COURTHOUSE



FIRST FLOOR, WELLS COUNTY COURTHOUSE

Auditor. Forty-five percent of the auditor's records are in the attic storage room, 21 percent are in the auditor's office, 7 percent are in the auditor's record room, 24 percent are in the treasurer's record room, 3 percent are in the clerk's office, and 1 volume is in the auditor's storage room. Other records located in the auditor's office are 70 percent of the board of commissioners' records, 67 percent of the board of review records, all records of the board of tax adjustment and board of finance, 25 percent of the board of education records, 4 percent of the department of public welfare records, 7 percent of the highway supervisor's records, and 5 percent of the agricultural agent's records.

Registration Officer. One percent of the registration officer's records are in the attic storage room, 51 percent are in the clerk's anteroom, 3 percent are in the clerk's record room, and 45 percent are in the clerk's office.

Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners. Twelve percent of the records are in the attic storage room, 82 percent are in the clerk's record room, and 6 percent are in the clerk's office.

County Board of Education. Fifty percent of the board's records are in the attic storage room, 25 percent are in the superintendent's office and 25 percent are in the auditor's office.

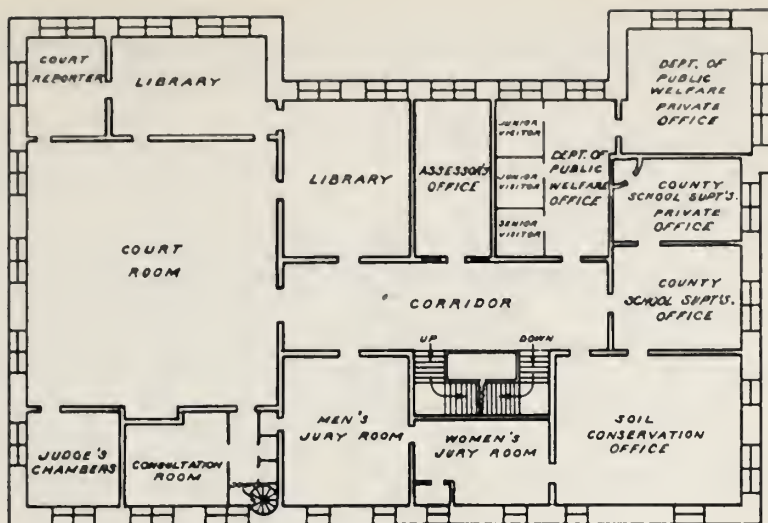
County Superintendent of Schools. Nine percent of the superintendent's records are in his private office, 90 percent are in the attic storage room, and 1 percent are in the superintendent's office. Other records located in the superintendent's office are 25 percent of the board of education records.

County Health Officer. All records are in the health officer's office at 121 E. Market Street, Bluffton.

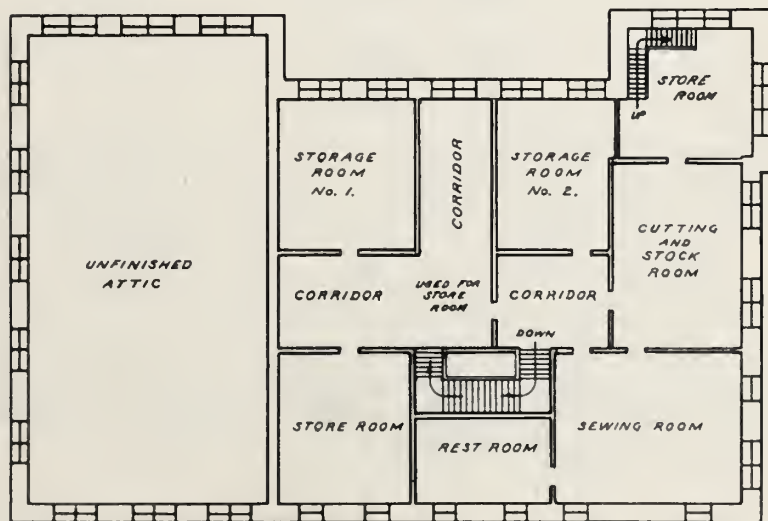
Public Health Nurse. All records of the health nurse are in her office.

County Department of Public Welfare. Ninety-six percent of the welfare department's records are in the welfare office, and 4 percent are in the auditor's office.

Surveyor. Seventy-three percent of the surveyor's records are in the attic storage room, and 27 percent are in the surveyor's office. Two hundred and forty-six blueprints are in the attic storage room and 558 are in the surveyor's office. Other records located in the surveyor's office are, 4 percent of the commissioners' records, and 3 volumes of circuit court records.



SECOND FLOOR, WELLS COUNTY COURTHOUSE



THIRD FLOOR, WELLS COUNTY COURTHOUSE

County Highway Supervisor. Seven percent of the highway supervisor's records are in the auditor's office, 21 percent are in the supervisor's office, and 72 percent are in the commissioners' room.

County Agricultural Agent. Ninety-five percent of the agricultural agent's records are in his office, and 5 percent are in the auditor's office.

Attic Storage Room. Housed in the attic storage room are, 9 percent of the commissioners' records, 42 percent of the clerk's records, 2 percent of the recorder's records, 13 percent of the circuit court records, all records of the court of common pleas (1853-73), 48 percent of the sheriff's records, 29 percent of the assessor's records, 33 percent of the board of review records, approximately 70 percent of the treasurer's records, 45 percent of the auditor's records, 1 percent of the registration officer's records, 12 percent of the election commissioners and canvassers' records, 50 percent of the board of education records, 90 percent of the records of the superintendent of schools, and 72 percent of the surveyor's records.

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

Acts	Session laws of the Indiana General Assembly
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agr. agt.	agricultural agent('s)
alph.	alphabetical(ly)
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)
aud.	auditor('s)
bd.	board
bdl.(s)	bundle(s)
Blackf.	<i>Blackford's Reports</i> (early decisions of the Indiana Supreme Court)
bldg.	building
bsmt.	basement
c.	copyright (before date)
C. C.	County Courthouse
cf.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comp.(s)	compiler(s)
comr.	commissioner('s)
Const.	Constitution of Indiana
cor.	coroner
ct. rept.	court reporter
diam.	diameter
ed.(s)	editor(s)
<i>et al.</i>	<i>et alii</i> (and others)
<i>et seq.</i>	<i>et sequentia</i> (and following)
ex rel.	<i>ex relatione</i> —upon relation of. (Designates the person at whose instance the State or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
fl.	floor
hdw.	handwritten
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)
<i>ibid.</i>	<i>ibidem</i> (in the same place)
Ind.	Indiana (when preceded by the volume number, reference is to official reports of decisions of the Indiana Supreme Court)
Ind. App.	official reports of decisions of Indiana Appellate Court

insp.	inspector
juv.	juvenile
L. Ed.	decisions of U. S. Supreme Court published by Lawyers Co-operative Publishing Co.
lb.(s)	pound(s)
<i>loc. cit.</i>	<i>loco citato</i> (in the place cited)
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i>
N. E.(2d)	<i>North Eastern Reporter</i> , second series
no.(s)	number(s)
numer.	numerically
off.	office
offr.	officer
Op. Atty. Gen.	opinions of the Attorney General of Indiana
<i>op. cit.</i>	<i>opere citato</i> (in the work cited). (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem</i>	<i>pro tempore</i>
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. L.	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
sec.(s)	section(s)
sher.	sheriff('s)
<i>sic</i>	thus (indicating expression, misspelling, etc., is the same as in the original)
(Spec. Sess.)	Special Session
sta.	station
strg.	storage
sub-bsmt.	sub-basement
suppl.	supplement
Sup. Ct.	decisions of U. S. Supreme Court published by West Publishing Co.
super. ct	superior court

supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
t. (tps.)	township(s)
U. S.	United States (when preceded by volume number, reference is to official reports of U. S. Supreme Court)
U. S. C.	<i>United States Code</i>
U. S. Stat.	<i>U. S. Statutes At Large</i>
v.	versus
vol.(s)	volume(s)
vt.	vault
Yr. Bk.	<i>Year Book of the State of Indiana</i>
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, (in dimensions)
-	to date and continuing

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the records. Titles enclosed in brackets are supplied by the Indiana Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, showing inclusive beginning and ending dates, except when a dash in place of an ending date denotes an open record. Missing records are indicated by a break in the dates. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labeling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—State or other county office; if changes in keeping records have been made, such changes are indicated and information is given to show by what authority the record is now kept.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers,

in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 10: "1837-1934 in Commissioners' Record, entry 2." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 363: "In Dealers to Sell Firearms, entry 62." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 62: "Also contains: [Firearms Dealers License] 1925-, entry 363." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or subheadings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

In the footnotes of essays the chapter and section numbers of the *Laws of the State of Indiana* (cited as Acts) are omitted when parallel Burns and Baldwin section numbers are cited; only the year of the law cited is given, as, for example, "Acts 1919; Burns 36-706; Baldwin 8899." The history lines for both Burns and Baldwin sections give the full citations. This method has been found necessary to prevent the footnotes from becoming unwieldy and occupying too much space on each page of the multigraphed volume.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of commissioners, which has existed in Wells County ever since 1837 is composed of three members¹ elected for 3-year terms commencing on January 1 in different years.² The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.³ Each member receives a certificate of election from the clerk of the circuit court⁴ and remains in office until his successor has been elected and qualified.⁵

Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁶ must reside within the county after his election; must not hold any other lucrative office;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.⁸ Each member

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. See footnote 22 herein.

County commissioners are not constitutional officers. State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909).

² Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. Acts 1901, ch. 182, sec. 1 (repealed by Acts 1929, ch. 59, sec. 2). 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218. Acts 1929; Burns 49-207; Baldwin 5566.

³ Rev. L. 1831, ch. 20, sec. 11. Rev. Stat. 1838, ch. 21, sec. 11. Rev. Stat. 1843, ch. 7, sec. 13. 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁴ Const. 1851, art. 15, sec. 6. Rev. L. 1824, ch. 16, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 38. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the Governor. *Ibid.*

⁵ Const. 1851, art. 15, sec. 3. Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. 1 Rev. Stat. 1852, ch. 20, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁶ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁸ Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 20, sec. 3. Rev. Stat. 1838, ch. 21, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605, 49-201; Baldwin 5219, 13054.

receives a regular salary of \$300 per year,⁹ plus 6 cents for each mile necessarily traveled by him in the conduct of county business.¹⁰

For sufficient legal causes any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of county commissioner is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.¹³

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Wells." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹⁴ In legal contemplation the board is the county.¹⁵

A regular session of the board of commissioners begins on the first Monday of each month and continues so long as the necessary business of the session requires.¹⁶ Special sessions are held when called by the auditor, the clerk of the circuit court (in case of the death or disqualification of the auditor), or the recorder (in case of the death or disqualification of the auditor and clerk of the circuit

⁹ Acts 1889, ch. 88, sec. 1. Acts 1899, ch. 241, sec. 1. Acts 1911, ch. 84, sec. 1. Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1013; Baldwin 7543.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899, Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 15050, 13163. Acts 1877, Burns 49-837, Baldwin 13052. Bateman v State, 211 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹² Acts 1897, 1899; Burns 49-874, Baldwin 12770.

¹³ 1 Rev. Stat. 1852, Acts 1925, Burns 26-601; Baldwin 5215. Op. Atty. Gen. 1935, p. 7.

¹⁴ Rev. L. 1831, ch. 20, sec. 4. Rev. Stat. 1838, ch. 21, sec. 4. Rev. Stat. 1843, ch. 7, sec. 3. 1 Rev. Stat. 1852; Burns 26-606, Baldwin 5210.

Suit against canal company. Acts 1851-52; Burns 36-2302 to 36-2304; Baldwin 9254 to 9256.

Suits concerning county seal donations. 1 Rev. Stat. 1852; Burns 26-801, Baldwin 5251.

¹⁵ Dice v. County Board of Finance, 99 Ind. App. 405, 182 N. E. 77 (1934).

¹⁶ Rev. L. 1831, ch. 20, sec. 5. Rev. Stat. 1838, ch. 21, sec. 5. Rev. Stat. 1843, ch. 7, sec. 4. 1 Rev. Stat. 1852, ch. 20, sec. 6. Acts 1850, ch. 21. Acts 1863, ch. 28. Acts 1897, ch. 123, sec. 1. Acts 1899, Burns 26-550, Baldwin 5221.

court).¹⁷ Any two members constitute a quorum to do business. When only two members are present and a division takes place on any question, such question must be continued until the next meeting of the board.¹⁸ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.¹⁹ All meetings of the board are open to the public.²⁰ An official seal must be kept and used by the board.²¹

From the organization of Wells County in 1837, the general administrative control of county matters has been vested in a board of commissioners similar to the present board, except that since 1899 many powers previously exercised by the board of commissioners have been vested in the county council.²²

FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property for the county (consent of county council is required when value is \$1,000 or more);²³ has control of the county property; may grant licenses, permits, and franchises with respect to county property;²⁴ has charge of the purchase of

¹⁷ Acts 1844-45 (general), ch. 66. Acts 1863; Burns 26-607 to 26-609; Baldwin 5222, 5224, 5225. Acts 1899; Burns 26-610; Baldwin 5223.

¹⁸ Rev. L. 1831, ch. 20, sec. 8. Rev. Stat. 1838, ch. 21, sec. 8. Rev. Stat. 1843, ch. 7, secs. 1, 6. 1 Rev. Stat. 1852, Acts 1929; Burns 26-601, 26-618; Baldwin 5215, 5227.

¹⁹ Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

²⁰ Rev. Stat. 1843, ch. 7, sec. 18. 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

²¹ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

²² Rev. L. 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-43. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20. Acts 1899, ch. 154. Snider v. State ex rel. Leap, 206 Ind. 474, 190 N. E. 178 (1934). See the essay entitled "County Council."

Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

²³ Acts 1838-39 (general), ch. 32. Rev. Stat. 1843, ch. 19, secs. 34, 42. Acts 1851-53, ch. 2, sec. 2. Acts 1855, ch. 12, sec. 1. Acts 1872 (Spec. Sess.), ch. 10, sec. 4. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1899; Burns 26-534; Baldwin 5399. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1917; Burns 26-2201; Baldwin 5165. Acts 1929; Burns 32-104; Baldwin 4878.

²⁴ Rev. L. 1831, ch. 90, sec. 30. Rev. Stat. 1843, ch. 7, sec. 14; ch. 19, sec. 42. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1909; Burns

materials and supplies needed by the county officials;²⁵ has control over all civil engineering work for the county;²⁶ has charge of the construction and maintenance of roads,²⁷ bridges, culverts,²⁸ waterways,²⁹ and county buildings and other structures;³⁰ has the power of eminent domain;³¹ pro-

26-1801 to 26-1803; Baldwin 5151, 5152, 5152 note. Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

Insurance. Potts v. Bennett, 140 Ind. 71, 39 N. E. 518 (1895); Barnhill v. Woodard, 26 Ind. App. 482, 59 N. E. 1085 (1901).

²⁵ Rev. L. 1831, ch. 15, sec. 14. Rev. Stat. 1838, ch. 17, sec. 14. Rev. Stat. 1843, ch. 59, sec. 16 (14). 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1865 (Spec. Sess.), ch. 99. Acts 1875, ch. 17. Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401. Acts 1917; Burns 26-2209; Baldwin 5173. Acts 1875 (Spec. Sess.), 1919; Burns 49-1435, 49-3206; Baldwin 13130, 5487. Acts 1899, 1913; Burns 52-209; Baldwin 13372.

²⁶ 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 5508.

²⁷ Rev. L. 1831, chs. 20, 22, 82. Rev. Stat. 1838, ch. 21, sec. 22; ch. 91. Rev. Stat. 1843, ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 80, sec. 4. Acts 1855, ch. 57. Acts 1858 (Spec. Sess.), ch. 9. Acts 1859, ch. 127, sec. 23. Acts 1865, chs. 8, 18, 29. Acts 1877, ch. 47; ch. 85, sec. 23. Acts 1879 (Spec. Sess.), ch. 115. Acts 1881 (Spec. Sess.), chs. 61-63. Acts 1885 (Spec. Sess.), chs. 57, 58, 68, 85. Acts 1893, chs. 88, 112, 163. Acts 1899, chs. 97, 109, 176, 206, 243. Acts 1901, chs. 51, 202, 205. Acts 1905, chs. 87, 100, 160, 164, 167. Acts 1913, chs. 330, 345. Acts 1915, ch. 186. Acts 1917, ch. 87, sec. 28; ch. 164. Acts 1919, chs. 112, 154, 208. Acts 1920 (Spec. Sess.), ch. 39. Acts 1921, ch. 178; ch. 234, sec. 3; ch. 262. Acts 1927, chs. 32, 239. Acts 1932 (Spec. Sess.), ch. 12, sec. 1; chs. 15, 16, 32. Acts 1933, chs. 27, 39. Acts 1935, chs. 56, 94, 145, 238. Acts 1937, ch. 48, sec. 1; ch. 135, secs. 4, 6, 8; chs. 136, 183; ch. 211, sec. 3. Acts 1939, ch. 64, sec. 1; ch. 140.

Convict labor. Acts 1913; Burns 13-109; Baldwin 13518.

²⁸ Rev. L. 1831, ch. 82, secs. 62, 66, 69. Rev. Stat. 1838, ch. 91, secs. 57-64. Rev. Stat. 1843, ch. 16, secs. 58-74. 1 Rev. Stat. 1852, ch. 16, secs. 4-6. Acts 1855, ch. 5. Acts 1869 (Spec. Sess.), ch. 8. Acts 1881, ch. 3, sec. 1. Acts 1885, chs. 31, 45. Acts 1895, ch. 96. Acts 1905, ch. 167, secs. 89, 45. Acts 1913, ch. 330. Acts 1919, chs. 93, 112. Acts 1920 (Spec. Sess.), ch. 25; ch. 39, sec. 4. Acts 1923, ch. 190. Acts 1927, ch. 10, secs. 4, 24; ch. 238, sec. 1. Acts 1929, ch. 114, secs. 1, 2; ch. 124. Acts 1932 (Spec. Sess.), ch. 32. Acts 1933, ch. 27, sec. 3.

²⁹ Acts 1832-33, ch. 58, sec. 2. 1 Rev. Stat. 1852, ch. 73. Acts 1861, ch. 46, secs. 11, 12. Acts 1873, chs. 15, 106. Acts 1905, ch. 167, secs. 21-26, 29, 30. Acts 1915, ch. 94.

³⁰ Rev. L. 1831, ch. 15, sec. 13; ch. 20, secs. 24, 27; ch. 69, sec. 28; ch. 90, sec. 16. Rev. Stat. 1838, ch. 20, sec. 24; ch. 79, sec. 31. Rev. Stat. 1813, ch. 7, secs. 20, 21; ch. 19, secs. 34, 37; ch. 57, sec. 1. 1 Rev. Stat. 1852, ch. 20, secs. 16, 17; ch. 58, sec. 1, ch. 81, sec. 25. Acts 1855, ch. 12. Acts 1889, ch. 155. Acts 1895, ch. 105, secs. 13-16. Acts 1899, ch. 110, secs. 1, 3; ch. 154, sec. 37. Acts 1901, ch. 38. Acts 1903, ch. 133. Acts 1907, ch. 271, secs. 1, 3, 4, 9. Acts 1911, ch. 173. Acts 1913, ch. 172. Acts 1915, ch. 163. Acts 1917, ch. 156, secs. 4, 8. Acts 1919, ch. 55, secs. 2-5. Acts 1927, ch. 59, sec. 1. Acts 1933, ch. 258. Acts 1935, ch. 183.

³¹ Acts 1937; Burns, 1941 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1941 suppl., 36-711; Baldwin, 1935 suppl., 8861-1. Acts 1921; Burns 59-416; Baldwin 10783.

vides office rooms for county officers;³² prepares annual budget estimates;³³ may authorize tax refunds;³⁴ allows claims against the county;³⁵ issues bonds and short-term notes (after authorization by the county council);³⁶ and may levy taxes for library purposes³⁷ and to retire certain county bonds.³⁸

³² Rev. L. 1831, ch. 15, sec. 13. Rev. Stat. 1833, ch. 17, sec. 13. Rev. Stat. 1843, ch. 7, sec. 21. 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1855, ch. 49, sec. 31. Acts 1917, ch. 139, sec. 7. Acts 1919, ch. 186, sec. 7. Acts 1937; Burns, 1941 suppl., 2-4726; no Baldwin. Acts 1899; Burns 26-507; Baldwin 5371. 1 Rev. Stat. 1852; Burns 26-624, Baldwin 5240. Acts 1899; Burns 26-625, Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

³³ Acts 1899; Burns 26-516, 26-519; Baldwin 5280, 5283. Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. Bateman v. State, 214 Ind. 138, 14 N. E. (2d) 1007 (1928).

³⁴ Rev. L. 1831, ch. 81, sec. 29. Acts 1853, ch. 110. Acts 1819, 1827, 1929; Burns 64-2819 to 61-2821; Baldwin 15881, 15882, 15885.

³⁵ Rev. L. 1821, ch. 29, secs. 7, 17; ch. 102, sec. 7. Rev. Stat. 1828, ch. 21, sec. 39. Rev. Stat. 1843, ch. 7, secs. 23, 26, 28, 29; ch. 19, sec. 31. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5226. Acts 1879 (Spec. Sess.); Burns 26-897; Baldwin 5256.

Claims under public welfare law. Acts 1901, ch. 103, sec. 1. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14-73-25.

³⁶ 1 Rev. Stat. 1822, ch. 29, secs. 17-23. Acts 1859, ch. 6. Acts 1873, ch. 11. Acts 1877, ch. 47, sec. 7. Acts 1881 (Spec. Sess.), ch. 61, sec. 4. Acts 1883, ch. 13, sec. 5. Acts 1889, ch. 13, sec. 1; ch. 137, sec. 3; ch. 230, sec. 1; ch. 244, sec. 13. Acts 1891, ch. 72, sec. 1; ch. 83, sec. 1. Acts 1893, ch. 112, sec. 5. Acts 1897, ch. 33, sec. 3. Acts 1899, ch. 206, sec. 7; ch. 252. Acts 1901, ch. 205, secs. 6, 12. Acts 1905, chs. 157, 167, 168. Acts 1909, ch. 101, sec. 12. Acts 1911, ch. 30, sec. 4. Acts 1913, ch. 172, sec. 3; ch. 205; ch. 273, sec. 5; ch. 357, sec. 12. Acts 1915, ch. 81, sec. 28; ch. 159, sec. 1. Acts 1917, ch. 87, sec. 28; ch. 124, sec. 6; ch. 144, secs. 1, 5; ch. 156, secs. 5, 10. Acts 1919, ch. 55, sec. 5; ch. 67; ch. 112, secs. 14, 43; ch. 115, sec. 8, ch. 131, sec. 4. Acts 1920 (Spec. Sess.), ch. 25, sec. 2; ch. 49, sec. 2. Acts 1921, ch. 152; ch. 245, secs. 4, 17; ch. 262, secs. 35, 43. Acts 1923, ch. 105, sec. 1; ch. 122, sec. 3. Acts 1925, chs. 96, 129; ch. 167, sec. 2; ch. 184. Acts 1927, ch. 10, sec. 4; ch. 38, sec. 1; ch. 52, sec. 1; ch. 72, sec. 1; ch. 174, sec. 3. Acts 1929, ch. 17, sec. 3; ch. 112, sec. 1; ch. 195; ch. 176, sec. 2; ch. 185. Acts 1931, ch. 73, sec. 1. Acts 1932 (Spec. Sess.), chs. 15, 46, 53. Acts 1933, chs. 170, 243, 244; ch. 264, secs. 36, 37. Acts 1935, ch. 117, secs. 1-3, 10; ch. 153, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, secs. 102-104, 109. Acts 1937, ch. 176.

³⁷ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510, 41-513; Baldwin, 1939 suppl., 10321, 10324. Acts 1917, 1921; Burns 41-515, 41-517; Baldwin 10726, 10738. Op. Atty. Gen. 1937, p. 126.

³⁸ Roads. Acts 1897, ch. 81, sec. 1. Acts 1899, ch. 109, sec. 4. Acts 1901, ch. 265, sec. 7. Acts 1911, ch. 30, secs. 6, 8. Acts 1917, ch. 225, sec. 1. Acts 1919; Burns 36-321, Baldwin 8874. Acts 1909; Burns 26-813; Baldwin 9121. Acts 1917, 1918; Burns 36-1220; Baldwin 8879. Acts 1921; Burns 36-1439; Baldwin 8942.

Jails. Acts 1891, ch. 83, sec. 2.

The board may establish or abolish townships and election precincts, and change the boundary lines thereof;⁸⁹ provide rooms, booths, chutes, and ballot boxes for elections, and may provide voting machines;⁴⁰ directs payment of the county share of the expenses of registrations for elections and determines the amounts to be paid by the cities in the county;⁴¹ divided the county into four councilmanic districts (for county council) in 1899 and may change the boundaries thereof at intervals of not less than 6 years;⁴² may order elections (not oftener than once each 3 years) on the question of change of county boundaries or formation of a new county;⁴³ may order an election on the question of relocation of the county seat;⁴⁴ may order an election on the question of establishment of a sanitary district within the county;⁴⁵ may order the establishment and construction of

Bridges. Acts 1920 (Spec. Sess.); Burns 26242; Baldwin 9122.

Flood control. Acts 1915, 1920 (Spec. Sess.); Burns 48-506; Baldwin 12382.

Hospital. Acts 1913, ch. 275, sec. 1 (repealed by Acts 1927, ch. 144, sec. 20) Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4317.

Purchase of land for park purposes. Acts 1927; Burns 26-1514; Baldwin 5192.

Purchase of public forest lands. Acts 1929; Burns 32-10; Baldwin 4877.

⁸⁹ Townships. Rev. L. 1831, ch. 22, sec. 4. Rev. Stat. 1838, ch. 34, sec. 5. Rev. Stat. 1843, ch. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1. Acts 1859, 1839, 1841; Burns, 1241 suppl. 26-701; Baldwin, 1941 suppl., 16055. Acts 1849, 1839, Burns, 1241 suppl., 26-705, Baldwin, 1939 suppl., 16059.

Election precincts. Acts 1833-34, ch. 48. Rev. Stat. 1838, ch. 32, sec. 23. Rev. Stat. 1843, ch. 5, sec. 18. 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1857 (Spec. Sess.), ch. 15, secs. 1, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 8, 9, 11. Acts 1887, ch. 187, secs. 2, 3. Acts 1887, ch. 19, secs. 3, 47. Acts 1919, ch. 186, sec. 3. Acts 1920 (Spec. Sess.), ch. 11, sec. 1. Acts 1927, ch. 195. Acts 1915; Burns 29-578; Baldwin 7204. Acts 1913, Burns 29-319, 29-1822; Baldwin 7317, 11622. Acts 1859, 1907; Burns 29-801 *et seq.*; Baldwin 70-9 *et seq.* Acts 1910 (Spec. Sess.); Burns 29-901; Baldwin 7091. Acts 1901, 1903, Burns 29-2404, Baldwin 7252.

⁴⁰ Rev. L. 1831, ch. 32, secs. 18, 19. Rev. Stat. 1838, ch. 32, secs. 10, 30. Rev. Stat. 1843, ch. 5, secs. 24-28. 1 Rev. Stat. 1852, ch. 31, sec. 12. Acts 1881 (Spec. Sess.), ch. 47, sec. 15. Acts 1899, ch. 15, sec. 2. Acts 1881, ch. 260, sec. 4. Acts 1887, ch. 182, sec. 14. Acts 1920 (Spec. Sess.), Burns 29-901; Baldwin 7154. Acts 1887, Burns 29-1101; Baldwin 7101. Acts 1887, Burns 29-1121, Baldwin 7155. Acts 1901, 1883; Burns 29-2404, Baldwin 7252.

⁴¹ Acts 1941, ch. 86, sec. 3. Acts 1887; Burns 29-1121, Baldwin 7252.

⁴² Acts 1887, Burns 29-1121, Baldwin 7252.

⁴³ Const. 1871, art. 17, sec. 7. Acts 1887, ch. 18. Acts 1887, ch. 22, sec. 1. Acts 1872, Burns 26-241; Baldwin 50-2. Acts 1881; Burns 26-241, Baldwin 50-44.

⁴⁴ Acts 1887, ch. 12. Acts 1887 (Spec. Sess.), ch. 94. Acts 1887, ch. 7. Acts 1887 (Spec. Sess.), Burns 26-241, 26-43; Baldwin 50-44, 50-45.

⁴⁵ Acts 1887, 1831, Burns 48-474, Baldwin 11710.

a drainage ditch when requested by a petition of landowners;⁴⁶ may pass on remonstrances against repair or reconstruction of drains;⁴⁷ may assess benefits or damages in the construction or improvement of ditches, drains, or water courses;⁴⁸ may join with the commissioners of adjacent counties or with counties in adjacent States for the construction or improvement of any ditch, drain, or water course;⁴⁹ may establish and maintain libraries⁵⁰ and hospitals;⁵¹ may establish and maintain an asylum for orphan children;⁵² has control of the county poor asylum;⁵³ may establish a workhouse and employ a superintendent thereof;⁵⁴ inspects the county jail⁵⁵ and poor asylum;⁵⁶ may prescribe regulations governing the work of prisoners outside the jail;⁵⁷ maintains standards of weight and measures;⁵⁸ may order the establishment of a permanent meridian line in the county;⁵⁹ may regulate traffic on the county roads;⁶⁰ must repair danger signs

⁴⁶ Acts 1927, ch. 60, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-104; Baldwin 5740.

⁴⁷ Acts 1907, ch. 252, sec. 17. Acts 1915, ch. 107, sec. 11. Acts 1927, ch. 166, sec. 1. Acts 1933, ch. 264, sec. 81. Acts 1933; Burns 27-120; Baldwin 5756.

⁴⁸ Acts 1941, ch. 63. Acts 1933; Burns 27-315; Baldwin 5810.

⁴⁹ Acts 1933; Burns 27-301, 27-307; Baldwin 5796, 5802.

⁵⁰ Rev. L. 1831, ch. 59, secs. 9, 10. Rev. Stat. 1843, ch. 25, secs. 78-81. 1 Rev. Stat. 1852; Burns 41-501, 41-502; Baldwin 10321 note. Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321. Op. Atty. Gen. 1939, p. 124.

⁵¹ Acts 1917, ch. 144, secs. 1, 20. Acts 1919, ch. 131. Acts 1923, ch. 111. Acts 1925, chs. 73, 128. Acts 1927, chs. 52, 72. Acts 1929, ch. 8. Acts 1903, 1939; Burns, 1941 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1907; Burns 48-7514; Baldwin 4539.

⁵² Acts 1897; Burns 22-2601; Baldwin 4382. Acts 1881, 1885 (Spec. Sess.), 1891; Burns 22-2603; Baldwin 4397.

⁵³ Const. 1876, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852, ch. 81, secs. 25-33. Acts 1899, ch. 76. Acts 1913, ch. 360.

⁵⁴ Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

⁵⁵ Acts 1907, ch. 11, sec. 8. Acts 1909; Burns 13-1105; Baldwin 13460.

⁵⁶ Rev. Stat. 1843, ch. 19, sec. 33. 1 Rev. Stat. 1852, ch. 115, sec. 3 (repealed by Acts 1853, ch. 119, sec. 1). 1 Rev. Stat. 1852, Acts 1909; Burns 52-205; Baldwin 15373.

⁵⁷ Acts 1879, ch. 26. Acts 1905; Burns 9-2223; Baldwin 2376.

⁵⁸ Rev. L. 1831, ch. 110, secs. 1, 2. Rev. Stat. 1838, ch. 114. Rev. Stat. 1843, ch. 63. Acts 1911, ch. 263, secs. 3-7. Acts 1913, ch. 161, sec. 1. 1 Rev. Stat. 1852; Burns 69-101; no Baldwin.

⁵⁹ Acts 1895; Burns 49-3327; Baldwin 10849.

⁶⁰ Acts 1925, ch. 213, sec. 52. Acts 1907, Burns 26-629; Baldwin 2958. Acts 1919; Burns 26-706; Baldwin 6829. Acts 1939; Burns, 1941 suppl., 47-18-7, 47-18-8, 47-20-5, Baldwin, 1939 suppl., 11189-37, 11189-38, 11189-66.

installed on public highways by railroad companies;⁶¹ must install and maintain street lights along any property owned by the county and abutting that of a town or city;⁶² may acquire, improve, and equip aviation fields;⁶³ may provide and maintain memorials for soldiers and sailors of the World War;⁶⁴ may authorize the merging of cemetery associations which control contiguous cemeteries;⁶⁵ may enforce regulations of the Administrative Building Council of Indiana;⁶⁶ and may determine the question of public utility of a levee petitioned for by a levee association.⁶⁷

The board may receive funds and property from private sources and hold the same in trust for certain purposes;⁶⁸ may receive donations for bridges,⁶⁹ parks, monuments, and public grounds;⁷⁰ may accept donations of buildings and grounds for county high schools and county agricultural schools;⁷¹ may make donations for certain educational purposes;⁷² may render financial assistance to the State Highway Commission in the construction and maintenance of a State highway or bridge;⁷³ may order elections on the question of public aid to railroads and may grant such aid when

⁶¹ Acts 1921; Burns 55-2009, 55-2010; Baldwin 8637, 8638.

⁶² Acts 1917; Burns 48-3327; Baldwin 5568.

⁶³ Acts 1920 (Spec. Sess.); Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

⁶⁴ Acts 1921; Burns 59-310, 59-401 to 59-422; Baldwin 10807, 10768 to 10789. Acts 1929; Burns 59-423; Baldwin 10790. Acts 1919; Burns 59-501; Baldwin 10822.

⁶⁵ Acts 1909; Burns 21-501 to 21-504; Baldwin 4639 to 4642.

⁶⁶ Acts 1923; Burns 20-408; Baldwin 4610.

⁶⁷ Acts 1905, ch. 168. Acts 1913, 1917; Burns 27-915; Baldwin 10241.

⁶⁸ Acts 1929, 1931; Burns 26 631, 26 632; Baldwin 4578, 4579.

Cemeteries. Acts 1939-39 (general), ch. 43, sec. 1, 3. Rev. Stat. 1843, ch. 25, sec. 63-67. Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674. 1 Rev. Stat. 1852, Burns 25-1521, Baldwin 10600. Op. Atty. Gen. 1910, p. 158.

Homies for indigent persons. Acts 1889, Burns 26-1204; Baldwin 5297. Acts 1903; Burns 26-1205; Baldwin 13446.

Bounties for volunteers to military and naval service. Acts 1869 (Spec. Sess.), ch. 7, sec. 1.

⁶⁹ Rev. L. 1841, ch. 82, sec. 67. Rev. Stat. 1838, ch. 91, sec. 62. Rev. Stat. 1843, ch. 16, sec. 61. Acts 1855, ch. 5, sec. 3. Acts 1857, ch. 11, sec. 3. Acts 1902; Burns 36-1902; Baldwin 9237.

⁷⁰ Acts 1865 (Spec. Sess.), ch. 73. Acts 1872 (Spec. Sess.), ch. 6. Acts 1903, ch. 138.

⁷¹ Acts 1890, 1905, 1912, 1921, Burns 28 174; Baldwin 6119.

⁷² Acts 1889, ch. 220, sec. 1. Acts 1889, ch. 187, sec. 10. Acts 1897; Burns 28-5503 to 28-5506; Baldwin 6784 to 6787.

⁷³ Acts 1923, 1929, Burns 26 146; Baldwin 8672.

authorized by election;⁷⁴ receives petitions for aid to historical societies, makes estimates and recommendations as to amounts of funds needed, and refers the same to the county council for action thereon;⁷⁵ may provide funds for the publication and distribution of World War histories;⁷⁶ may grant aid for city libraries⁷⁷ and for agricultural fairs;⁷⁸ may cancel allowances and warrants drawn thereon if not called for within 5 years;⁷⁹ may order the county auditor to issue fee bills for costs "in cases tried and heard" before the board "in which costs are adjudged against any party;"⁸⁰ may grant franchises to street railway companies for the extension of tracks beyond city limits;⁸¹ may authorize the fencing of lands subject to overflow and the charging of special assessments against the lands benefited thereby;⁸² may make special assessments to pay for flood control maintenance⁸³ and the cost of construction of roads;⁸⁴ may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;⁸⁵ may order the reproduction of mutilated or decayed records;⁸⁶ may administer oaths; may enforce its orders; may punish for contempt;⁸⁷ may authorize the payment of certain bounties;⁸⁸ may offer rewards in case of murder

⁷⁴ Acts 1869 (Spec. Sess.), 1875 (Spec. Sess.), 1879; Burns 55-302, 55-314; Baldwin 14336, 14348. Acts 1872 (Spec. Sess.); Burns 55-404, 55-411, 55-416; Baldwin 14382, 14389, 14394.

⁷⁵ Acts 1901, ch. 233. Acts 1909; Burns 26-1303, 26-1304; Baldwin 5577, 5578.

⁷⁶ Acts 1921; Burns 26-1312; Baldwin 5504.

⁷⁷ Acts 1917, 1921, 1939; Burns 1041 suppl., 41-514; Baldwin, 1039 suppl., 10325.

⁷⁸ Acts 1905, 1927, 1932 (Spec. Sess.); Burns 15-217, 15-318; Baldwin 3597, 3598.

⁷⁹ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁸⁰ Acts 1865 (Spec. Sess.); Burns 26-620; Baldwin 5300.

⁸¹ Acts 1875 (Spec. Sess.); Burns 57-616; Baldwin 14451. Acts 1865, 1879 (Spec. Sess.); Burns 55-301; Baldwin 15477.

⁸² Acts 1875; Burns 26-301, 26-302, Baldwin 7642 to 7644. Acts 1877 (Spec. Sess.); Burns 30-605 to 30-608; Baldwin 7651 to 7658.

⁸³ Acts 1915, 1920 (Spec. Sess.); Burns 48-502, 48-504; Baldwin 12754, 12756.

⁸⁴ Acts 1877, ch. 47, secs. 6, 7. Acts 1883, ch. 128, sec. 4. Acts 1883, ch. 112, sec. 6. Acts 1887; Burns 56-104, Baldwin 8704. Acts 1921; Burns 26-1111 to 26-1113, Baldwin 8915 to 8917.

⁸⁵ 1 Rev. Stat. 1872 Burns 26-600, 26-602; Baldwin 5255 to 5287.

⁸⁶ Acts 1877; Burns 26-604, 26-605; Baldwin 5289, 5310. 1 Rev. Stat. 1872; Burns 49-3222; Baldwin 5472. 2 Rev. Stat. 1872; Burns 70-101, 70-102, 70-103, 70-104; Baldwin 1168, 1169, 1176, 1178.

⁸⁷ Acts 1822-31, ch. 24. Rev. Stat. 1828, ch. 21, sec. 27, 28; ch. 76, sec. 3. Rev. Stat. 1847, ch. 7, secs. 10, 11. 1 Rev. Stat. 1852, Burns 25-100, Baldwin 5253.

Rev. L. 1831, ch. 111, sec. 4. Rev. Stat. 1851, ch. 15. Acts 1844-45 (general), ch. 46, sec. 5. 1 Rev. Stat. 1852, ch. 18. Acts 1851, ch. 9, sec. 1. Acts 1851, ch. 14, secs. 1, 2. 1 Rev. Stat. 1872, Acts 1875, 1887, 1911; Burns 26-1101 to 26-1103, 26-1106, 26-1107; Baldwin 5283, 5289, 5302, 5293, 5294.

or lynching;⁸⁹ and provides funds for the arrest and return of fugitives from justice.⁹⁰

The board receives and examines the treasurer's quarterly reports,⁹¹ and makes annual settlement with him;⁹² annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;⁹³ makes an annual report concerning the school funds (after receiving reports from the county treasurer and auditor), makes a permanent record of this report, and sends a copy to the Auditor of State;⁹⁴ may approve (subject to further approval by the State Board of Accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;⁹⁵ may authorize county offices to use a photographic process for recording deeds, mortgages, and other instruments;⁹⁶ and may direct the county surveyor to procure a certified copy of the field notes of the townships, ranges, sections, fractional sections, and quarter sections, as originally surveyed, from register of land office and to deposit the same in the office of the recorder.⁹⁷

The board may license ferries⁹⁸ and fix ferry rates;⁹⁹

⁸⁹ Acts 1899; Burns 26-1104; Baldwin 5290.

⁹⁰ Acts 1901, ch. 104. Acts 1905, ch. 169, sec. 42. Acts 1909, ch. 66, sec. 1. Acts 1921 ch. 8, sec. 2. Acts 1923, ch. 92, sec. 1. Acts 1935; Burns, 1941 suppl., 9-419, 9-442; Baldwin, 1937 suppl., 2049-1, 2049-24.

⁹¹ Rev. L. 1824, ch. 23, sec. 4. Acts 1842-43 (general), ch. 74, sec. 1. Acts 1871, ch. 17, secs. 27, 31. Acts 1873, ch. 48, sec. 41. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁹² Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, sec. 2. Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁹³ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 35. 1 Rev. Stat. 1852, ch. 20, sec. 29. Acts 1899; Burns 26-546; Baldwin 5411.

⁹⁴ Acts 1846-47, (general), ch. 9, sec. 4. 1 Rev. Stat. 1852, ch. 98, secs. 63, 65-67. Acts 1855, ch. 86, secs. 90-92. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

⁹⁵ Acts 1937; Burns, 1941 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁹⁶ Acts 1927; Burns 49-3207; Baldwin 14667.

⁹⁷ Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1838, ch. 103, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 9, 10. 1 Rev. Stat. 1852, ch. 103, sec. 2. Acts 1911; Burns 49-3309; Baldwin 5508.

⁹⁸ Rev. L. 1831, ch. 38, sec. 1. Rev. Stat. 1838, ch. 41, sec. 1. Rev. Stat. 1843, ch. 17, secs. 1-8. 1 Rev. Stat. 1852, ch. 80, sec. 27. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501; Baldwin 7676. 1 Rev. Stat. 1852, ch. 1855, Burns 36-2601, Baldwin 7691. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608; Baldwin 7698.

⁹⁹ Rev. L. 1821, ch. 26, sec. 42, ch. 38, sec. 10. Rev. Stat. 1838, ch. 41, sec. 10. Rev. Stat. 1843, ch. 53, sec. 82. 1 Rev. Stat. 1852, ch. 39, sec. 10. Acts 1881 (Spec. Sess.), 1897; Burns 36-2613; Baldwin 7703.

may make certain regulations concerning the operation of ferries;¹⁰⁰ may authorize elections for the incorporation of towns and declare the results thereof;¹⁰¹ may authorize a town to annex unplatted land;¹⁰² may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;¹⁰³ may furnish antitoxin and virus for poor persons without charge;¹⁰⁴ may contract with the State Veterinarian for tuberculin cattle tests;¹⁰⁵ and may, with the consent of the county council, appropriate money for the extermination of rats.¹⁰⁶

The board cannot bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money already appropriated by ordinance of the county council for the purpose of the obligation attempted to be incurred, unless some law enacted after 1897 expressly authorizes such action.¹⁰⁷

The board has authority to appoint a county highway supervisor,¹⁰⁸ a highway construction inspector,¹⁰⁹ a county health officer,¹¹⁰ a public health nurse,¹¹¹ a county inspector of weights and measures,¹¹² a superintendent of the

¹⁰⁰ Rev. L. 1831, ch. 38, secs. 5, 7, 11. Rev. Stat. 1843, ch. 17, sec. 9. 1 Rev. Stat. 1852; Burns 36-266; Baldwin 766. Acts 1881 (Spec. Sess.); Burns 36-2614; Baldwin 7704.

¹⁰¹ Rev. Stat. 1843, ch. 25, secs. 1, 2. 1 Rev. Stat. 1852, ch. 108, sec. 5. Acts 1905, 1909; Burns 48-104, 48-105, 48-109; Baldwin 11327, 11328, 11342.

¹⁰² 1 Rev. Stat. 1852, ch. 17, secs. 82, 83; ch. 108, secs. 51, 52. Acts 1857, ch. 33, secs. 84, 85. Acts 1865 (Spec. Sess.), ch. 1, secs. 83, 84, 92. Acts 1867, ch. 15, secs. 85, 86. Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

¹⁰³ Acts 1843-44 (general), ch. 45. 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

¹⁰⁴ Acts 1907, 1910, 1929, 1935; Burns, 1911 suppl., 35-701; Baldwin, 1935 suppl., 13392.

¹⁰⁵ Acts 1925, 1927; Burns 16-608; Baldwin 3871. Acts 1931; Burns 16-616; Baldwin 3883.

¹⁰⁶ Acts 1913; Burns 35-1603; Baldwin 8572.

¹⁰⁷ Acts 1899, Burns 26-525; Baldwin 5389.

¹⁰⁸ Acts 1933; Burns 26-1110, Baldwin 8703. See the essay entitled "County Highway Supervisor "

¹⁰⁹ Acts 1919, Burns 26-324; Baldwin 8856. Acts 1921; Burns 26-1447; Baldwin 8950.

¹¹⁰ Acts 1925; Burns, 1941 suppl., 35-118; Baldwin, 1925 suppl., 8404-1. See the essay entitled "County Health Officer "

¹¹¹ Acts 1905; Burns, 1941 suppl., 35-122; Baldwin, 1905 suppl., 8404-6. See the essay entitled "Public Health Nurse."

¹¹² Acts 1911, ch. 263, sec. 3. Acts 1917, ch. 141, sec. 1. Acts 1921, Burns 66-104, 69-107; Baldwin 16-35, 16308.

poor asylum,¹¹³ a curator for the county historical society (if any),¹¹⁴ food inspectors (beef, flour, pork, salt, and hay),¹¹⁵ an appraiser of State lands,¹¹⁶ fence viewers,¹¹⁷ hospital trustees,¹¹⁸ a board of visitors (one member from each township) to the county asylum,¹¹⁹ a memorial committee (100 or more members),¹²⁰ three members of a board of memorial trustees,¹²¹ one member of the local alcoholic beverage board,¹²² five members of county planning commission,¹²³ three members of the county public library board,¹²⁴ two members of a city or town library board (when city or town library is receiving county aid),¹²⁵ and three members of a miners' examination board;¹²⁶ may employ a county attorney,¹²⁷ tax ferrets,¹²⁸ a civil engineer (if the surveyor is not a competent civil engineer),¹²⁹ bridge superinten-

¹¹³ Rev. Stat. 1843, ch. 19, sec. 34. 1 Rev. Stat. 1852; Burns 62-201; Baldwin 13360. Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

¹¹⁴ Acts 1921, ch. 248, sec. 1. Acts 1929; Burns 26-1309; Baldwin 5583.

¹¹⁵ Rev. L. 1831, ch. 50, secs. 1-6. Acts 1833-34, ch. 72, secs. 1, 14. Rev. Stat. 1838, ch. 53, secs. 1, 3, 6. Acts 1839-40 (general), ch. 21, sec. 1. Rev. Stat. 1843, ch. 27, secs. 1, 3. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

¹¹⁶ Acts 1869; Burns 62-207; Baldwin 15273.

¹¹⁷ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-23. Acts 1875; Burns 30-501; Baldwin 7642. Acts 1877 (Spec. Sess.); Burns 30-605; Baldwin 7655.

¹¹⁸ Acts 1917, ch. 144, sec. 20. Acts 1917; Burns 22-3217, 22-3219; Baldwin 4518, 4520. Acts 1913, 1917, 1927; Burns 22-3301; Baldwin 4478. Acts 1925; Burns 22-3402; Baldwin 9286.

¹¹⁹ 1 Rev. Stat. 1852; Burns 52-217; Baldwin 13377.

¹²⁰ Acts 1919; Burns 59-502; Baldwin 10823.

¹²¹ Acts 1919, 1921; Burns 59-506; Baldwin 10827.

¹²² Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-417; Baldwin, 1941 suppl., 3764-6.

¹²³ Acts 1935; Burns, 1941 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

¹²⁴ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

¹²⁵ Acts 1917, 1921, 1939; Burns, 1941 suppl., 41-514; Baldwin, 1939 suppl., 10325.

¹²⁶ Acts 1923; Burns 46-1001; Baldwin 11073.

¹²⁷ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899, Burns 26-519; Baldwin 5383.

¹²⁸ Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15606-1.

¹²⁹ Acts 1816-17, ch. 26, sec. 1. Acts 1877, ch. 47, sec. 2. Acts 1883, ch. 128, sec. 2. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 10, 14. Acts 1903, ch. 145, sec. 2. Acts 1883; Burns 26-1405; Baldwin 5317. Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1909; Burns 36-805; Baldwin 9113. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1903; Burns 36-12335; Baldwin 9095. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5506.

dents,¹³⁰ a custodian of public halls,¹³¹ inspectors for construction and repair of county buildings,¹³² a commissioner to reproduce county records which have been mutilated or destroyed,¹³³ road viewers and reviewers,¹³⁴ a county veterinarian,¹³⁵ a physician for poor persons (in county institutions) and prisoners;¹³⁶ may regulate the number of justices of the peace in each township (subject to certain statutory requirements), and may appoint justices in certain instances;¹³⁷ may authorize the appointment of deputies and assistants of county officers;¹³⁸ approves the official bonds¹³⁹ of the

¹³⁰ Rev. L. 1831, ch. 82, sec. 62. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. Acts 1855, ch. 5, sec. 4. Acts 1863, ch. 10, sec. 3. Acts 1869 (Spec. Sess.), ch. 8, sec. 2. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1895; Burns 36-2217; Baldwin 9232.

¹³¹ Acts 1903; Burns 26-1904; Baldwin 5149.

¹³² Acts 1907; Burns 26-2006; Baldwin 5105.

¹³³ 2 Rev. Stat. 1852, Acts 1865; Burns 57-109; Baldwin 1176.

¹³⁴ Rev. L. 1831, ch. 32, secs. 4, 53. Rev. Stat. 1838, ch. 91, secs. 4, 7, 10, 13, 74, 75. Rev. Stat. 1843, ch. 16, secs. 13, 18, 22, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 22, 23. Acts 1865, ch. 8, secs. 3-5. Acts 1869 (Spec. Sess.), ch. 35, sec. 2. Acts 1875, ch. 50, sec. 3. Acts 1877, ch. 47, secs. 2-6. Acts 1883, ch. 128, secs. 2, 3. Acts 1889, ch. 85, sec. 2; ch. 137, sec. 1; ch. 192, sec. 1; ch. 234, sec. 2. Acts 1893, ch. 88, sec. 2; ch. 112, sec. 1. Acts 1901, ch. 205, secs. 1, 14. Acts 1903, ch. 145, sec. 2. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-205, 36-209, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1215, 36-1301; Baldwin 8756, 8760, 8764, 8773, 8776, 8777, 8790, 8791, 8808, 9097, 8787. Acts 1907; Burns 36-405; Baldwin 8996. Acts 1909; Burns 36-805, 36-808; Baldwin 9113, 9116. Acts 1933; Burns 36-1108; Baldwin 8076. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1935; Burns, 1941 suppl., 36-2704, 36-2705; Baldwin, 1935 suppl., 14775-4, 14775-5.

¹³⁵ Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

¹³⁶ 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81, sec. 27. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs., 4 Ind. App. 191, 30 N. E. 912 (1892).

¹³⁷ Rev. L. 1831, ch. 33, secs. 5-7. Rev. Stat. 1838, ch. 21, sec. 12. Rev. Stat. 1843, ch. 4, sec. 22. 2 Rev. Stat. 1852, ch. 1, sec. 1, p. 449. Acts 1913; Burns 5-101; Baldwin 1828. Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

Formerly the board ordered special elections to fill vacancies in the office of justice of the peace. Acts 1819-20, ch. 21, sec. 2. Acts 1828-39 (general), ch. 83, sec. 2.

¹³⁸ Acts 1816-17, ch. 26, sec. 1. Acts 1840-41 (general), ch. 3, sec. 6. Rev. Stat. 1842, ch. 7, sec. 63. Acts 1891, ch. 99, sec. 113. Acts 1923; Burns 36-1107; Baldwin 8075. Acts 1935; Burns, 1941 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1. Acts 1921; Burns 49-504; Baldwin 5497. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1941 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹³⁹ Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1873; Burns 49-141; Baldwin 13092.

auditor,¹⁴⁰ clerk of the circuit court,¹⁴¹ coroner,¹⁴² recorder,¹⁴³ sheriff,¹⁴⁴ surveyor,¹⁴⁵ treasurer,¹⁴⁶ bridge superintendents,¹⁴⁷ memorial trustees,¹⁴⁸ hospital trustees,¹⁴⁹ superintendent of the poor asylum,¹⁵⁰ and county inspector of weights and measures;¹⁵¹ directs the commencement of actions on the bonds of defaulting county and township officials;¹⁵² may remove a delinquent county treasurer after suit on his official bond has been commenced;¹⁵³ may remove township trustees from office for failure to keep proper books and accounts as required by the school laws;¹⁵⁴ and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,¹⁵⁵ any officers originally

¹⁴⁰ Acts 1840-41 (general), ch. 2, secs. 2, 5. Rev. Stat. 1843, ch. 7, secs. 45, 49. 1 Rev. Stat. 1852, ch. 8, sec. 2. Acts 1889; Burns 49-3003; Baldwin 5417.

¹⁴¹ Acts 1807, ch. 71, sec. 1. Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 12093. Acts 1875; Burns 49-2702; Baldwin 1420.

¹⁴² Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5476.

¹⁴³ Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

¹⁴⁴ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1911 suppl., 49-2801; Baldwin, 1937 suppl., 54-3.

¹⁴⁵ Acts 1903; Burns 49-3202 to 49-3211; Baldwin 5505 to 5507.

¹⁴⁶ Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1. Rev. Stat. 1843, ch. 7, secs. 67, 74. 1 Rev. Stat. 1852, ch. 104, sec. 2. Acts 1865, ch. 3. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5543.

¹⁴⁷ Acts 1863, ch. 10, sec. 4. Acts 1869, ch. 8, sec. 4. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1913; Burns 36-2001; Baldwin 9191.

¹⁴⁸ Acts 1911; Burns 59-506(2); Baldwin 10827(2).

¹⁴⁹ Acts 1917; Burns 22-3718; Baldwin 4519.

¹⁵⁰ Rev. Stat. 1843, 1 Rev. Stat. 1852, Acts 1894; Burns 52-203; Baldwin 13373.

¹⁵¹ Acts 1925; Burns 69-106; Baldwin 16357.

¹⁵² Acts 1826-27, ch. 72, sec. 4. 1 Rev. Stat. 1852, ch. 12, sec. 15. Acts 1873; Burns 49-140; Baldwin 1091.

¹⁵³ Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852, Burns 49-3110; Baldwin 5562.

¹⁵⁴ Acts 1865, Burns 28-2420; Baldwin 5880.

¹⁵⁵ 1 Rev. Stat. 1852, Burns 49-400; Baldwin 13104.

Auditor. Act 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50.

County assessor. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1843, ch. 116, sec. 1. Acts 1919, 1921; Burns 61-1101; Baldwin 10006.

Treasurer. Acts 1817-18 (general), ch. 41, sec. 3. Acts 1840-41 (general), ch. 4, sec. 4. Rev. Stat. 1843, ch. 7, secs. 74, 87. Acts 1845-46 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852, Acts

appointed to office by the board of commissioners,¹⁵⁶ the township trustee,¹⁵⁷ and certain other township officers.¹⁵⁸ Appointments made by the board are certified by the auditor.¹⁵⁹

The members of the board of commissioners are ex officio members of the county board of finance.¹⁶⁰ The president of the board of commissioners is an ex officio member of the commission of public records.¹⁶¹ The three county commissioners are members of the county hospital governing board when such board exists, and serve with eight members appointed by the judge of the circuit court.¹⁶² Members of the board of commissioners served on the county board of equalization from 1837 until 1891.¹⁶³

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;¹⁶⁴ could grant aid for maintenance of a forest owned by a forestry association from 1913 until 1935;¹⁶⁵ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;¹⁶⁶ determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;¹⁶⁷ and rebuild

1865, 1919; Burns 49-3101; Baldwin 5548.

Notice of resignations. 1 Rev. Stat. 1852; Burns 49-205; Baldwin 13100.

¹⁵⁶ See the authorities cited above for the appointment of officers by the board of commissioners.

Resignations. 1 Rev. Stat. 1852; Burns 49-205; Baldwin 13090.

¹⁵⁷ 1 Rev. Stat. 1852, ch. 110, sec. 17. Acts 1859, 1933; Burns 65-106; Baldwin 16063.

¹⁵⁸ Acts 1840-41 (general), ch. 2, sec. 5. Rev. Stat. 1843, ch. 7, secs. 49, 50. 1 Rev. Stat. 1852, ch. 115, sec. 4. Acts 1859, ch. 133, sec. 9. Acts 1933, ch. 150, sec. 1.

¹⁵⁹ 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

¹⁶⁰ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

¹⁶¹ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

¹⁶² Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

¹⁶³ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15. Acts 1840-41 (general), ch. 1, secs. 9, 13, 18; ch. 5, sec. 14. Rev. Stat. 1843, ch. 12, sec. 42. 1 Rev. Stat. 1852, ch. 6, secs. 58, 91; ch. 35, sec. 2. Acts 1867, ch. 110, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1881 (Spec. Sess.), ch. 96, sec. 129. Acts 1891, ch. 99, sec. 114.

¹⁶⁴ Acts 1929; Burns 32-105; Baldwin 4879.

¹⁶⁵ Acts 1913, ch. 13, sec. 4. Acts 1935, ch. 27, sec. 1.

¹⁶⁶ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

¹⁶⁷ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.¹⁶⁸

Formerly the board of commissioners could appoint appraisers (taxes, 1841 to 1872),¹⁶⁹ assessors (taxes, 1837 to 1841),¹⁷⁰ a clerk of the board of turnpike directors (1879 to 1913),¹⁷¹ a commissioner of the 3 percent fund (1837 to 1853),¹⁷² a county agent (1837 to 1853),¹⁷³ constables (1837 to 1853),¹⁷⁴ a county surveyor (1843 to 1851),¹⁷⁵ drainage commissioners and appraisers (1863 to 1933),¹⁷⁶ election inspectors (1837 to 1929),¹⁷⁷ a librarian and a treasurer for

¹⁶⁸ Acts 1935; Burns, 1941 suppl., 26-3011; Baldwin, 1935 suppl., 5240-1.

¹⁶⁹ Acts 1840-41 (general), ch. 1, secs. 1-13, 30. Rev. Stat. 1843, ch. 12, sec. 20. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

Office of appraiser replaced by office of county assessor. Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

¹⁷⁰ Rev. L. 1831, ch. 81, secs. 3, 4. Acts 1835-36 (general), ch. 7, secs. 3, 4, 35. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, sec. 12. Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷¹ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1893, ch. 163, sec. 1.

Board of turnpike directors was abolished in 1913. Acts 1913, ch. 330, secs. 1, 2. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

¹⁷² Acts 1832-33, ch. 58, secs. 2, 5, 6. Acts 1835-36 (general), ch. 42, sec. 2. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32. 1 Rev. Stat. 1852, chs. 44, 92. Acts 1881 (Spec. Sess.), ch. 102.

¹⁷³ Rev. L. 1831, ch. 85, secs. 1, 2, 4, 6, 11. Rev. Stat. 1838, ch. 93, secs. 1, 2, 4, 11. Rev. Stat. 1843, ch. 4, sec. 48; ch. 18, secs. 5, 12, 13, 17. Acts 1851-52, ch. 2.

¹⁷⁴ Rev. L. 1831, ch. 17, secs. 5, 9, 20; ch. 20, sec. 20. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 460.

¹⁷⁵ Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

¹⁷⁶ Acts 1863, ch. 27, sec. 1. Acts 1867, ch. 99, sec. 1. Acts 1873, ch. 66, sec. 13. Acts 1875, ch. 64, secs. 2, 5. Acts 1879 (Spec. Sess.), ch. 121, sec. 1. Acts 1883, ch. 132, secs. 2, 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1889, ch. 67, sec. 13. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 146, sec. 3. Acts 1901, ch. 235, secs. 1, 2. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, sec. 1. Acts 1933, ch. 264, sec. 81.

¹⁷⁷ Rev. L. 1831, ch. 20, sec. 20; ch. 33, sec. 5. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1877 (Spec. Sess.), ch. 15, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11. Acts 1889, ch. 87, sec. 4.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

the county library,¹⁷⁸ liquor agents (1855 to 1859),¹⁷⁹ a matron for pauper children (1881 to 1936)¹⁸⁰ overseers of the poor (1837 to 1853),¹⁸¹ a poundkeeper (1837 to 1853),¹⁸² road commissioners (1837 to 1865),¹⁸³ road superintendent (1879 to 1933),¹⁸⁴ road supervisors (township or district, 1837 to 1853),¹⁸⁵ school examiners (1853 to 1873),¹⁸⁶ school superintendents and trustees (lands and funds, 1837 to 1853),¹⁸⁷ a tax collector (1837 to 1841),¹⁸⁸ tobacco inspectors (1837 to 1857),¹⁸⁹ a treasurer (1837 to 1841),¹⁹⁰ two members of each township board of registry (1867 to 1869),¹⁹¹ a board of visitors (three members) for examination of homes where

¹⁷⁸ Acts 1845-46 (general), ch. 9.

¹⁷⁹ Acts 1855, ch. 105, secs. 5, 7. Acts 1858 (Spec. Sess.), ch. 15, sec. 1.

¹⁸⁰ Acts 1881 (Spec. Sess.), ch. 81, secs. 1, 2, 5. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹⁸¹ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, secs. 1, 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

¹⁸² Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838 (first act), ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

¹⁸³ Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 67, 75, 79. Rev. Stat. 1843, ch. 16, sec. 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4. Acts 1865 (Spec. Sess.), ch. 29, secs. 2, 3.

¹⁸⁴ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 9, 10. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1903, ch. 145, sec. 9. Acts 1905, ch. 167, secs. 51, 79, 86. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1933, ch. 19, sec. 2.

¹⁸⁵ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, sec. 22. Acts 1839-40 (general), ch. 4, sec. 10. Rev. Stat. 1843, ch. 4, secs. 27, 160; ch. 5, sec. 71. 1 Rev. Stat. 1852, ch. 102, secs. 1-4.

¹⁸⁶ Acts 1853, ch. 106, sec. 6 (1). Acts 1855, ch. 86, sec. 146. Acts 1861, ch. 41, sec. 32. Acts 1865, ch. 1, sec. 33. Acts 1873, ch. 25, sec. 2.

¹⁸⁷ Rev. L. 1831, ch. 90, secs. 1, 28. Acts 1832-33, ch. 46, sec. 1; ch. 70, secs. 4, 25. Rev. Stat. 1838, ch. 21, sec. 25; ch. 94 (2), sec. 2; ch. 98, secs. 1, 28. Acts 1840-41 (general), ch. 11(2), sec. 2. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

¹⁸⁸ Rev. L. 1831, ch. 81, secs. 17, 18. Acts 1835-36 (general), ch. 7, secs. 32, 35. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

¹⁸⁹ Rev. L. 1831, ch. 50, sec. 6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27, sec. 7. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

¹⁹⁰ Rev. L. 1831, ch. 21, secs. 1, 6. Rev. Stat. 1838, ch. 22, secs. 1, 6. Acts 1840-41 (general), ch. 4, secs. 1, 34.

¹⁹¹ Acts 1867, ch. 51, sec. 2. Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

pauper children were kept (1881 to 1936),¹⁹² and township agents to disburse money for certain relief to soldiers, sailors, marines, and their families (1865 and 1866).¹⁹³

Formerly the board of commissioners drew orders on the county treasurer and had them attested by the clerk of the board (1837 to 1841);¹⁹⁴ required the making of tax lists by tax officials, received and corrected these lists, and reviewed tax assessments (1837 to 1841);¹⁹⁵ made all county tax levies and rates before 1899;¹⁹⁶ fixed the rate of dog tax from 1925 until 1937;¹⁹⁷ could levy a tax for maintenance of ditches and drains from 1915 until 1917;¹⁹⁸ authorized certain tax levies by township trustees (1859 to 1899);¹⁹⁹ granted certain exemptions from poll taxes (1837 to 1919),²⁰⁰ road taxes (1843 to 1853),²⁰¹ and property taxes (1849 to 1853);²⁰² directed tax officials to prepare, post, and distribute lists of delinquent taxes (1837 to 1853);²⁰³ charged

¹⁹² Acts 1881 (Spec. Sess.), ch. 81, sec. 8. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹⁹³ Acts 1865, ch. 40, secs. 8, 10, 16.

¹⁹⁴ Rev. L. 1831, ch. 21, sec. 15. Rev. Stat. 1838, ch. 21, sec. 15. Acts 1840-41 (general), ch. 2, sec. 11.

¹⁹⁵ Rev. L. 1831, ch. 20, sec. 9; ch. 81, secs. 5, 8, 14, 16, 27. Acts 1333-34, ch. 220, secs. 8, 9. Acts 1834-35 (general), ch. 11, secs. 18, 19, 23, 28. Acts 1835-36 (general), ch. 7, secs. 5, 7, 17, 18, 25, 28, 29. Acts 1836-37 (general), ch. 60, sec. 1. Acts 1838-39 (general), ch. 14, sec. 15; ch. 58, sec. 2. Acts 1840-41 (general), ch. 9, sec. 4.

¹⁹⁶ Rev. L. 1831, ch. 20, sec. 9; ch. 69, secs. 25, 27; ch. 81, secs. 2, 13. Rev. Stat. 1838, ch. 21, sec. 9; ch. 79, sec. 29. Rev. Stat. 1843, ch. 16, sec. 59; ch. 19, secs. 36, 43. Acts 1848-49 (general), ch. 109, sec. 60. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 21, 22, 28; ch. 81, secs. 29, 35. Acts 1861, ch. 95. Acts 1861 (Spec. Sess.), ch. 12, sec. 3. Acts 1875, ch. 7, sec. 4. Acts 1885 (Spec. Sess.), ch. 5. Acts 1895, ch. 96, sec. 12.

County council now has general power to make tax levies and rates. Acts 1899; Burns 26-515; Baldwin 5379.

¹⁹⁷ Acts 1925, ch. 144, sec. 1. Acts 1927, ch. 176, secs. 1, 14. Acts 1937, ch. 133, sec. 16.

¹⁹⁸ Acts 1915, ch. 107, sec. 23. Acts 1917, ch. 124, sec. 10.

¹⁹⁹ Acts 1859, ch. 133, sec. 8. Acts 1863, ch. 16, sec. 1. Acts 1865 (Spec. Sess.), ch. 28, sec. 20. Acts 1867, ch. 61. Acts 1873, ch. 99. Acts 1879 (Spec. Sess.), ch. 95, sec. 3. Acts 1881 (Spec. Sess.), ch. 63, sec. 3. Acts 1899, 1917; Burns 65-301, Baldwin 16102.

²⁰⁰ Rev. L. 1831, ch. 81, secs. 1, 2. Rev. Stat. 1838, ch. 21, sec. 36. Rev. Stat. 1843, ch. 7, sec. 33. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). Op. Atty. Gen. 1936, p. 83.

²⁰¹ Rev. Stat. 1843, ch. 16, sec. 102. Acts 1848-49 (general), ch. 109, sec. 100. Acts 1849-50 (general), ch. 224, sec. 2. 1 Rev. Stat. 1852, ch. 102, sec. 9.

²⁰² Acts 1848-49 (general), ch. 106. 1 Rev. Stat. 1852, ch. 6, sec. 92.

²⁰³ Rev. L. 1831, ch. 81, sec. 33. Acts 1843-44 (general), ch. 113. Acts 1846-47 (general), ch. 30, sec. 5. 1 Rev. Stat. 1852, ch. 92.

and remitted tax penalties (1837 to 1843);²⁰⁴ could make allowances to owners of property wrongfully seized, sold, or destroyed by any officer acting under the liquor laws (1859 to 1917);²⁰⁵ directed the administration of county poor relief (1837 to 1936);²⁰⁶ could provide and maintain a house for the accomodation of the children placed under the custody and control of the board of children's guardians (1901 to 1936);²⁰⁷ furnished record books to justices of the peace (1877 to 1899);²⁰⁸ audited the books and accounts of all officers handling county funds (1837 to 1909);²⁰⁹ audited the warrants of township trustees and reported thereon to the circuit court (1897 to 1899);²¹⁰ received reports from the

²⁰⁴ Rev. L. 1831, ch. 81, sec. 27. Rev. Stat. 1843, ch. 12, sec. 66.

²⁰⁵ Acts 1859, ch. 63. Acts 1917, ch. 4, sec. 26, 40.

²⁰⁶ Rev. L. 1831, ch. 69. Rev. Stat. 1838, ch. 79. Rev. Stat. 1843, ch. 19. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81. Acts 1857, ch. 8. Acts 1889, ch. 78, sec. 3. Acts 1899, ch. 76; ch. 90, sec. 3, 6; ch. 154, sec. 33. Acts 1901, ch. 147. Acts 1903, ch. 144. Acts 1933, ch. 86. Acts 1936 (Spec. Sess.), ch. 3. *Wayne Township v. Brown*, 205 Ind. 437, 186 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Rev. Stat. 1838, ch. 79, sec. 6, 11. 1 Rev. Stat. 1852, ch. 81, sec. 28, 32; ch. 68, sec. 3. Acts 1873, ch. 119, sec. 1, 2. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5. Acts 1903, ch. 247.

Insanc. Acts 1817-18 (general), ch. 63, sec. 5. Rev. Stat. 1838, ch. 52, sec. 3. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8. Acts 1901, ch. 195.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

Old-age pensions. Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

²⁰⁷ Acts 1901, 1919, 1923; Burns 22-2806; Baldwin 5689. Acts 1933; Burns 28-2207; Baldwin 4447. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121; Baldwin, 1937 suppl., 14078-22.

²⁰⁸ Acts 1877 (Spec. Sess.), ch. 23. Acts 1899, ch. 154, sec. 23.

²⁰⁹ Rev. L. 1831, ch. 69, sec. 26; ch. 75, sec. 7; ch. 65, sec. 8; ch. 86, sec. 50, 52; ch. 90, sec. 4, 20, 21. Rev. Stat. 1838, ch. 17, sec. 11; ch. 22, sec. 2; ch. 79, sec. 4, 27, 30; ch. 83, sec. 7; ch. 93, sec. 8; ch. 94(2), sec. 13, 15; (3), sec. 5; (5), sec. 21; (6), sec. 7; ch. 95, sec. 6; ch. 98, sec. 4, 7; ch. 107(2), sec. 1; (3), sec. 1, 3. Rev. Stat. 1843, ch. 7, sec. 14, 78; ch. 13, sec. 100; ch. 15, sec. 117-120; ch. 19, sec. 31, 32. Acts 1845-46 (general), ch. 48. 1 Rev. Stat. 1852, ch. 6, sec. 121, 122; ch. 81, sec. 22, 23 (repealed by Acts 1881 (Spec. Sess.), ch. 81, sec. 13); ch. 98, sec. 63, 65, 121-125. Acts 1859, ch. 133, sec. 14. Acts 1861, ch. 41, sec. 18, 149-151. Acts 1893, ch. 88, sec. 4; ch. 146, sec. 21. 1 Rev. Stat. 1852, Acts 1935; Burns, 1941 suppl., 26-620; Baldwin, 1935 suppl., 5256. Acts 1897; Burns 26-626; Baldwin 5237. Acts 1865, 1873, 1883; Burns 28-2412, 28-2418 to 28-2420; Baldwin 6498, 5978 to 5980. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 12862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1909, by W. Davis Hamilton.

²¹⁰ Acts 1897, ch. 144. Acts 1899, ch. 105, sec. 7.

judge of the circuit court concerning his examination of the office of the clerk of the circuit court (1852 to 1909);²¹¹ received quarterly reports from the board of charities and corrections (1899 to 1936);²¹² selected grand jurors (1837 to 1881) and petit jurors (1837 to 1853);²¹³ received from justices of the peace and the clerk of the circuit court lists showing judgments of fines and the amounts collected thereon and paid to county treasurer (1837 to 1853);²¹⁴ provided blank forms for elections (1837 to 1881);²¹⁵ heard and decided election contests (1837 to 1933);²¹⁶ supervised the sale of town lots by the county agent, and assigned various other duties for him to perform as agent of the board (1837 to 1852);²¹⁷ awarded scholarships to Indiana University (1837 to 1919) and Purdue University (1877 to 1935);²¹⁸ approved official bonds of constables (1837 to 1855),²¹⁹ road superintendent (1881 to 1933),²²⁰ appraiser,²²¹ county assessor

²¹¹ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the State Examiner. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

²¹² Acts 1899, ch. 34, secs. 3, 4. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, sec. 22.

²¹³ Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24; ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12. Acts 1881, ch. 69, sec. 11.

²¹⁴ Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 92.

²¹⁵ Rev. L. 1831, ch. 32, secs. 1, 19. Rev. Stat. 1838, ch. 32, sec. 1. Rev. Stat. 1843, ch. 5, sec. 25. 1 Rev. Stat. 1852, ch. 31, sec. 11. Acts 1835, ch. 66. Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

²¹⁶ Rev. L. 1831, ch. 32, secs. 8, 9, 22, 23; ch. 58, sec. 1. Rev. Stat. 1838, ch. 32, secs. 34, 35. Rev. Stat. 1843, ch. 5, sec. 86. 1 Rev. Stat. 1852, ch. 31, secs. 16-23. Acts 1881 (Spec. Sess.), ch. 47, secs. 83, 84. Acts 1933, ch. 242.

²¹⁷ Rev. L. 1831, ch. 85, secs. 1, 2, 4, 7-9. Rev. Stat. 1838, ch. 93, secs. 4, 8, 9. Rev. Stat. 1843, ch. 18, secs. 11, 12, 17. Acts 1851-52, ch. 2, sec. 1. See the essay entitled "County Agent"

²¹⁸ Acts 1833-34, ch. 17. Acts 1834-35 (general), ch. 44, sec. 1. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 74. Act 1846-47 (general), ch. 39. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29. Acts 1879, ch. 185, sec. 1. Acts 1935, ch. 181, secs. 1, 2.

²¹⁹ Rev. L. 1831, ch. 17, secs. 4, 5, 9, 21. Rev. Stat. 1838, ch. 19, secs. 4, 9. Rev. Stat. 1843, ch. 47, secs. 284, 288. Acts 1885, ch. 9.

²²⁰ Acts 1881 (Spec. Sess.), ch. 63, sec. 2. Acts 1889, ch. 85, sec. 8; ch. 234, sec. 11. Acts 1901, ch. 202, sec. 2. Acts 1905, ch. 167, secs. 51, 67. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95, sec. 1. Acts 1933, ch. 19, sec. 2.

²²¹ Acts 1840-41 (general), ch. 1, secs. 2, 20. Acts 1858 (Spec. Sess.), ch. 2.

(1837 to 1852, 1872 to 1875), and township assessors (1837 to 1881);²²² could authorize the release or substitution of sureties on the official bonds previously approved by the board of commissioners (1837 to 1843);²²³ could authorize the county auditor to employ an administrator of the school fund, and was required to approve the official bond of such administrator (1837 to 1937);²²⁴ could authorize the creation of horse thief detective associations, and could expel members therefrom (1852 to 1907);²²⁵ could authorize designated members of horse thief detective associations to exercise certain powers of constables (1907 to 1933);²²⁶ could allow rewards for the apprehension of horse thieves (1837 to 1853);²²⁷ could authorize the incorporation of cemetery associations (1875 to 1939);²²⁸ assisted in the organization of agricultural societies (1837 to 1843);²²⁹ allowed damages to owners of livestock killed or injured by wolves (1841 to 1843)²³⁰ or dogs (1841 to 1843, 1925 to 1937);²³¹ directed the distribution of funds derived from the sale of estrays and driftage, on receiving proof of ownership (1837 to 1843);²³² directed the liquidation of property donated in the county for the colonization of negroes and mulattoes (1852 to 1865);²³³ ordered the county treasurer to distribute the unexpended

²²² Rev. L. 1824, ch. 86, sec. 5. Rev. Stat. 1843, ch. 7, secs. 53, 62. Acts 1851-52, ch. 6, sec. 2; ch. 7, secs. 66-68. Acts 1872 (Spec. Sess.), ch. 37, sec. 107. Acts 1875, ch. 97, secs. 2, 7, 9. Acts 1891 (Spec. Sess.), ch. 96, sec. 106.

²²³ Acts 1833-34, ch. 221. Acts 1834-35 (general), ch. 27, secs. 1-3. Rev. Stat. 1838, ch. 15, secs. 1, 2; ch. 76. Rev. Stat. 1843, ch. 4, secs. 101-135.

²²⁴ Acts 1905, ch. 273. Acts 1939, ch. 153.

²²⁵ 1 Rev. Stat. 1852, ch. 51, sec. 2. Acts 1865 (Spec. Sess.), ch. 95, sec. 4. Acts 1891, ch. 81, sec. 1. Acts 1907, ch. 144. Acts 1933, ch. 239.

²²⁶ Acts 1907, ch. 144, sec. 8. Acts 1933, ch. 239.

²²⁷ Acts 1852-33, ch. 52. Rev. Stat. 1828, ch. 21 (second act). Rev. Stat. 1843, ch. 7, sec. 24. 1 Rev. Stat. 1852, ch. 51.

²²⁸ Acts 1875, ch. 11, secs. 1, 2. Acts 1879 (Spec. Sess.), ch. 13. Acts 1939, ch. 142, sec. 29.

²²⁹ Acts 1834-35 (general), ch. 70, sec. 4. Rev. Stat. 1838, ch. 2 (second act), secs. 1, 4, 10. Rev. Stat. 1843, ch. 25.

²³⁰ Acts 1840-41 (general), ch. 61, sec. 5. Rev. Stat. 1843, ch. 59, sec. 4.

²³¹ *Ibid.* Acts 1925, ch. 144, secs. 9, 10. Acts 1927, ch. 176, sec. 14. Acts 1929, ch. 58, sec. 1. Acts 1927, ch. 133, secs. 9, 16.

²³² Const. 1816, art. 12, sec. 4. Rev. L. 1821, ch. 35, secs. 8, 9. Rev. Stat. 1838, ch. 37, secs. 8, 10. Rev. Stat. 1843, ch. 21, sec. 20.

²³³ 1 Rev. Stat. 1852, ch. 13, sec. 4. Acts 1865, ch. 17.

portion of the 3 percent fund to the trustees of the several townships;²³⁴ approved privately owned homes for friendless women, to be used as places of detention under court commitments (1867 to 1869);²³⁵ could authorize the construction of private bridges with authority to charge tolls (1837 to 1929);²³⁶ could authorize toll-road companies to locate, lay out, and construct roads (1848 to 1929);²³⁷ could fix toll-bridge rates (1837 to 1929);²³⁸ granted brokers' licenses (1841 to 1853)²³⁹ and liquor licenses (1837 to 1918);²⁴⁰ granted tavern licenses with privilege to sell liquor (1837 to 1853);²⁴¹ could order special elections under local option liquor laws (1908 to 1917);²⁴² granted licenses to sell foreign and domestic merchandise with privilege to sell liquor (1837 to 1853);²⁴³ approved all bonds required in connection with licenses granted by the board;²⁴⁴ and fixed the amount of license fees on various licenses (1837 to 1917).²⁴⁵

²³⁴ Acts 1831 (Spec. Sess.), ch. 102, sec. 1.

²³⁵ Acts 1867, ch. 122, secs. 1, 3. Acts 1869 (Spec. Sess.), ch. 32, secs. 1, 15-18.

²³⁶ Rev. L. 1831, ch. 82, sec. 68. Rev. Stat. 1838, ch. 91, sec. 62. Rev. Stat. 1843, ch. 16, sec. 65. Acts 1848-49 (general), ch. 109, sec. 66. Acts 1855, ch. 5, sec. 8. Acts 1859, ch. 14, secs. 1, 9. Acts 1929, ch. 215, sec. 73.

²³⁷ Acts 1848-49 (general), ch. 97, sec. 4, ch. 98. 1 Rev. Stat. 1872, ch. 80, sec. 4. Acts 1929, ch. 215, sec. 73.

²³⁸ Rev. L. 1831, ch. 26, sec. 43. Rev. Stat. 1838, ch. 41, sec. 10; ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, secs. 65, 67. Acts 1859, ch. 14, sec. 9. Acts 1875, ch. 8, sec. 7. Acts 1929, ch. 215, sec. 73.

²³⁹ Acts 1840-41 (general), ch. 5, sec. 6. Acts 1841-42 (general), ch. 91. Rev. Stat. 1843, ch. 12, secs. 165, 175. 1 Rev. Stat. 1852, ch. 65, secs. 1, 3.

²⁴⁰ Rev. L. 1831, ch. 81, sec. 50; ch. 105, sec. 19. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 25, sec. 27; ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 82, sec. 1 (19). Acts 1853, ch. 66, secs. 3, 8. Acts 1855, ch. 103, secs. 4, 5; ch. 106, sec. 1. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 110. Acts 1861, ch. 7. Acts 1873, ch. 59. Acts 1875 (Spec. Sess.), ch. 13. Acts 1889, ch. 148. Acts 1895, ch. 127. Acts 1897, ch. 167. Acts 1898, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-5. Acts 1913, ch. 142. Acts 1915, ch. 10. Acts 1917, ch. 4, secs. 6, 7, ch. 80.

²⁴¹ Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

²⁴² Acts 1848 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 1. Acts 1917, ch. 4, sec. 40.

²⁴³ Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 4, ch. 108, sec. 19. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

²⁴⁴ See the authorities cited in connection with the granting of licenses.

²⁴⁵ Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7, ch. 105, sec. 6. Rev. Stat. 1843, ch. 12, sec. 171, ch. 59, sec. 13. 1 Rev. Stat. 1852, ch. 65, secs. 1, 2. Acts 1857, ch.

The board of commissioners has always had the power to establish, construct, and maintain roads,²⁴⁶ except that from 1879 until 1913 the board of commissioners was an *ex officio* board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 to 1901 and as "Board of Directors" from 1901 to 1913). This board divided the county into three districts, and each director had personal supervision of one district.²⁴⁷ Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highways.²⁴⁸

The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.²⁴⁹ Whenever, in the trial of any cause, two or more members of the board are disqualified, the judge of the circuit court appoints special commissioners to act in their places.²⁵⁰ During any session of the board and while going to and returning from the same, members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify.²⁵¹

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.²⁵² Appeals are specifically provided for in proceedings

43. Acts 1917, ch. 50. See citations in footnotes in connection with the granting of licenses.

²⁴⁶ See footnote 27 herein.

²⁴⁷ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs.

1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1.

²⁴⁸ Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1932 (Spec. Sess.), chs. 32, 34. Acts 1933, ch. 19. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

²⁴⁹ Rev. Stat. 1843, ch. 7, sec. 8. 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

²⁵⁰ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

²⁵¹ Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 5. 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

²⁵² Rev. L. 1831, ch. 20, sec. 28; ch. 38, sec. 12. Rev. Stat. 1838, ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. State ex rel. Starry v. Board of County Comrs., 136 Ind. 207, 35 N. E. 1100 (1893); State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

concerning claims against the county,²⁵³ relocation of the county seat,²⁵⁴ licensing of public ferries,²⁵⁵ drainage assessments,²⁵⁶ establishment or modification of townships,²⁵⁷ and in road matters.²⁵⁸

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.²⁵⁹ Copies of the proceedings of the board, when signed and sealed by the auditor, are sufficient evidence thereof on the trial of any cause in any of the courts of this State.²⁶⁰

PROCEEDINGS AND REPORTS

1. COMMISSIONERS' DOCKET, 1858-85, 1892-. 9 vols. (1. A, B, 2-7).

Docket of causes filed in commissioners' court, showing date of filing, cause number, names of principals, and action taken. Arr. chron. by date of filing. No index. Hdw. 500 pp. 18 x 13 x 3. 4 vols., 1858-85, 1892-1903, attic strg. room; 5 vols., 1904-, aud. off.

²⁵³ 1 Rev. Stat. 1852, ch. 3, secs. 9, 10. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

²⁵⁴ Acts 1879, ch. 15. Acts 1885 (Spec. Sess.); Burns 26-410; no Baldwin.

²⁵⁵ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

²⁵⁶ Acts 1873, ch. 66, sec. 21. Acts 1881 (Spec. Sess.), ch. 44, secs. 17, 18. Acts 1891, ch. 196, sec. 6. Acts 1901, ch. 235, sec. 3. Acts 1905, ch. 157, sec. 9. Acts 1907, ch. 252, sec. 17. Acts 1913, ch. 165, sec. 21. Acts 1917, ch. 124, sec. 3. Acts 1933, ch. 264, secs. 17, 61.

²⁵⁷ Acts 1859, 1939, 1941, Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. State ex rel. Sink v. Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

²⁵⁸ Acts 1848-49 (general), ch. 109, secs. 56, 57. 1 Rev. Stat. 1852, ch. 48, secs. 26, 37. Acts 1867, ch. 86, sec. 6. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 13, 14. Acts 1889, ch. 85, sec. 12; ch. 192, sec. 3; ch. 234, sec. 16. Acts 1899, ch. 176, sec. 1. Acts 1903, ch. 145, sec. 14; ch. 165, sec. 1. Acts 1905, ch. 167, secs. 56, 123. Acts 1913, ch. 159, sec. 2. Acts 1919, ch. 112, sec. 9. Acts 1921, ch. 262, secs. 13, 14, 18. Acts 1933, ch. 27, sec. 8.

²⁵⁹ Acts 1840-41 (general), ch. 2, sec. 8. Rev. Stat. 1843, ch. 7, secs. 5, 15-17, 53. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3001; Baldwin 5226, 5228, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

Substitute for auditor. 1 Rev. Stat. 1852; Burns 49-3016; Baldwin 5430.

The clerk of the circuit court served as clerk of the board of commissioners until the creation of the office of auditor in 1841. Rev. L. 1831, ch. 20, secs. 6, 15. Rev. Stat. 1838, ch. 21, sec. 6. Acts 1840-41 (general), ch. 2.

²⁶⁰ Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. Acts 1899, ch. 59, sec. 1. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

2. COMMISSIONERS' RECORD, 1837-. 31 vols. (A-I, K-Z, 27-31, 31).

Minutes of meetings of board of commissioners, showing date and place of meeting, names of members present, subject discussed, and action taken. Also contains: Bidders' record, 1837-1934, entry 10; claim and allowance record, 1837-64, entry 16; highway and ditch record combined, 1894-, entry 20; record of roads, 1872-, entry 21; gravel road record, 1885-1903, 1907-, entry 22; record of free turnpike directors, 1899-1904, entry 23; bond record, 1837-Dec. 5, 1867, entry 33. Arr. chron. by date of meeting. Indexed alph. by name of subject discussed; also separate index, 1837-92, entry 3. Hdw. 1837-1912; typed 1913-. 600 pp. 18 x 13 x 3. Aud. off.

3. INDEX COMMISSIONERS' RECORD, 1837-92. 7 vols. (A-D, F, L; 1 vol. unlabeled).

Index to commissioners' record, entry 2, showing subject discussed and volume and page reference to recording. Arr. alph. by subject discussed. Hdw. 400 pp. 18 x 13 x 3. Aud. off.

4. MISCELLANEOUS PAPERS BOARD OF COMMISSIONERS, 1908-. 3 f. b.

Original miscellaneous documents, consisting of drainage commissioners' bonds, proofs of publication, noncollusion affidavits of bidders, applications for admission to hospital, petitions to change boundary lines of voting precincts, and grand jury reports of inspections of county institutions, showing dates of document and filing, names of principals, and nature of document. Also contains: Tax certificates, Feb. 1923-Feb. 1940, entry 333; and election certificates, May 1936-, entry 374. Arr. chron. by date of filing. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

5. HOSPITAL, 1913-. 5 f. b.

Monthly reports of expenditures by board of trustees of county hospital, showing dates of report and filing; date, amount, and nature of expenditure; name of payee; and total expenditures. Arr. chron. by date of report. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

6. [GRAND JURY REPORTS], 1935. In Miscellaneous, entry 213.

Grand jury reports to board of commissioners of inspection of county infirmary and jail, showing date of report, names of grand jurors, statement of conditions of buildings, number of inmates or prisoners, and recommendations.

BOND ISSUES

7. BOND REGISTER, 1907-. 2 vols.

Record of bond issues, showing date, nature, number, and amount of each bond; date and total amount of issue; interest rate; amount and number of coupons; amount of premium; name of purchaser; dates of maturity and redemption; and amounts of bonds redeemed and outstanding. Also contains: Register of road bonds issued, 1907-27, entry 8. Arr. chron. by date of issue. No index. Hdw. 80 pp. 18 x 24 x 1. 1 vol., 1907-19, aud. off.; 1 vol., 1920-, aud. rec. room.

8. REGISTER OF ROAD, 1928-. 1 vol. 1907-27 in Bond Register, entry 7.

Record of bond issues for the construction of gravel roads, showing information as in entry 7. Arr. chron. by date of issue. No index. Hdw. 150 pp. 14 x 18 x 1½. Aud. off.

9. BONDS AND COUPONS REDEEMED, 1908-. 1 carton and 3 f. b.

Redeemed bonds and coupons, showing information as in entry 7. Arr. chron. by date of redemption. No index. Hdw. Cartons 17 x 17 x 15; f. b. 11 x 5 x 14. 1 carton, 1908-24, aud. rec. room; 3 f. b., 1925-, aud. off.

BIDS, BONDS, AND CONTRACTS

10. BIDDERS' RECORD, 1935-. 1 vol. 1837-1934 in Commissioners' Record, entry 2.

Record of bids submitted for tools, implements, materials, and equipment as requisitioned by official in charge of repair and maintenance of county highways, showing dates of bids, publication of notice for bids, and opening; names of all bidders and successful bidder; quantity, purpose, description, and unit price of bid; and volume and page reference to commissioners record, entry 2. Arr. chron. by date of bid. Indexed alph. by name of bidder. Hdw. 320 pp. 14 x 14 x 2. Aud. off.

11. [BIDS], 1915-. 8 f. b. Title varies: Bridges and Other Contracts, 1915-33, 2 f. b.; Bids, County Farm, Highway Supplies, 1934, 1 f. b.; Highway Bids, Co[unty] Farm, & Childrens' Home Bids, 1935-37, 1 f. b.

Contains:

- i. Bids for construction, improvement, repairs, supplies, and materials for county projects and institutions, showing date of bid, name of bidder,

description and unit price of items, amount of bid, and action taken. Arr. chron. by date of bid.

- ii. Contracts for construction, improvement, repairs, supplies, and materials for county projects and institutions, showing date, amount, and conditions of contract and name of contractor. Arr. chron. by date of contract.

- iii. Surety bonds filed by contractors for construction, improvement, repairs, supplies, and materials for county projects and institutions, showing date, amount, and conditions of bonds and names of contractor and sureties. Arr. chron. by date of bond.

No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

12. SALE OF FREE GRAVEL ROAD, 1893-1904. 1 vol.

Record of bids and contracts for construction of free gravel roads, showing dates of bid, opening of bids, and awarding of contract; amounts of bids and contract; names of bidders, contractor, and road; and conditions of contract. Arr. chron. by date of opening of bids. Indexed alph. by name of road. Hdw. 425 pp. 16 x 12 x 12. Surv. off.

CLAIMS AND ALLOWANCES

13. [CLAIMS], 1917-. 74 f. b.

Original claims filed for allowance, showing information as in entry 16. Arr. chron. by date of allowance. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

14. [COUNTY HIGHWAY CLAIMS], 1931-. 35 bdls. and 1 f. b. (dated).

Original claims filed for cost of materials and supplies used by county highway department, showing information as in entry 16. Arr. chron. by date of claim. No index. Hdw. Bdls. 2 x 4 x 8; f. b. 11 x 4 x 14. Comrs.' room.

15. PUBLIC WELFARE CLAIMS], 1936-. In Public Welfare, entry 350iii.

Claims for administrative expenses of county department of public welfare, showing date, nature, number, and amount of claim; name of claimant; and appropriation number.

For record of claims, see entry 432.

16. CLAIM AND ALLOWANCE RECORD, 1865-. 11 vols. (1 vol. unlabeled; C, D, 1-8). 1837-64 in Commissioners' Record, entry 2. "

Record of claims filed and allowances made, showing dates and amounts of claim and allowance; claim, appropriation, and warrant numbers; and name of claimant. Also contains:

Turnpike allowance record, 1883-94, 1912, entry 17. Arr. numer. by claim no. No index. Hdw. 300 pp. 18 x 13 x 3. 3 vols., 1865-1902, 1916-20, attic strg. room; 8 vols., 1903-15, 1921-, aud. off.

17. TURNPIKE ALLOWANCE RECORD, 1895-1911. 2 vols. (1, 2). 1883-94, 1912 in Claim and Allowance Record, entry 16.

Record of claims filed and allowances made for labor and materials for county roads, showing dates and amounts of claim and allowance and name of claimant. Arr. chron. by date of allowance. No index. Hdw. 200 pp. 18 x 13 x 1½. Attic strg. room.

18. BURIAL RECORD OF EX-UNION SOLDIERS, Feb. 1904-. 2 vols. Title varies: Soldier's Burial Record, Feb. 1904-26, 1 vol.

Record of claims filed and allowances made for burial expenses of persons who served in Army or Navy during war, showing dates and amounts of claim and allowance; name, age, and military or naval rank of deceased; date and place of burial; names of claimant, township, and trustee; and trustee's certificate of burial expenses. Arr. chron. by date of claim. Indexed alph. by names of soldier, sailor, or marine. Hdw. 400 pp. 16 x 12 x 2½. Aud. off.

PUBLIC IMPROVEMENTS

19. [ROAD PAPERS], 1907-. 23 f. b.

Contains:

- i. Appointments of viewers, showing date of appointment, names of viewers, name and location of road, and instructions.
- ii. Bids, showing dates of bid and filing, names of bidder and road, and amount and conditions of bid.
- iii. Contractors' bonds, showing date, amount, and conditions of bond and names of contractor, sureties, and road.
- iv. Copies of ordinances by county council authorizing bond issues for construction of roads, showing date of ordinance, name of road, and amount of bond issue.
- v. Estimates of costs, showing date of estimate, names of engineer and road, and itemized estimate of costs.
- vi. Notices of hearings to be held on petitions, showing date of notice; date and place of hearing; and name, location, and description of road.

- vii. Notices by State Board of Tax Commissioners of approval of bond issues for construction of roads, showing date of approval, name of road, and amount of bond issue approved.
- viii. Petitions, showing dates of petition and filing, names of petitioners, and location and description of road.
- ix. Proofs of publication of notices for bids, showing dates of notice and receiving bids; name, location, and description of road; name of newspaper; and affidavit of publisher.
- x. Remonstrances, showing dates of remonstrance and filing, names of remonstrators and road, and reasons for filing remonstrance.
- xi. Specifications for construction, showing date of specifications; name, location, and description of road; name of engineer; and specifications.
- xii. Viewers' reports, showing date of report; name of viewers; name, location, and description of road; and action taken.

Arr. by name of road. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

20. HIGHWAY AND DITCH RECORD COMBINED, 1837-93. 2 vols. 1894-in Commissioners' Record, entry 2.

Record of actions and proceedings on petitions filed for construction, changing route, vacating, and repair of roads, showing date and nature of action; names of principals; name, location, and description of road; and action taken. Also contains: Commissioners' ditch record, 1837-74, entry 28. Arr. chron. by date of action. No index. Hdw. 230 pp. 20 x 14 x 1½. Attic strg. room.

21. RECORD OF ROADS, 1852-71. 1 vol. 1872-in Commissioners' Record, entry 2.

Record of reports by viewers and orders by board of commissioners for establishing, constructing, changing, and vacating roads, showing dates of report and order; name, location, and description of road; and names of viewers, road, and surveyor. Arr. chron. by date of order. Indexed alph. by names of viewers and surveyor. Hdw. 300 pp. 18 x 13 x 3. Attic strg. room.

22. GRAVEL ROAD RECORD, 1904-6. 1 vol. (7). 1835-1903. 1907-in Commissioners' Record, entry 2.

Record of actions and proceedings for construction and repair of gravel roads, showing date and nature of action; names of principals; name, location, and description of road; description of construction or repairs; and action taken. Arr.

chron. by date of action. Indexed alph. by name of road. Hdw. 375 pp. 18 x 13 x 3. Aud. off.

23. RECORD OF FREE TURNPIKE DIRECTORS, 1905-12. 1 vol. 1883-98 in Record of Repairs of Free Turnpikes, entry 24; 1899-1904 in Commissioners Record, entry 2.

Minutes of meetings of turnpike directors, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 588 pp. 18 x 13 x 3. Attic strg. room.

24. RECORD OF REPAIRS OF FREE TURNPIKES, 1883-98. 1 vol. Record of repairs on free turnpikes, showing name and location of road, road district number, names and reports of viewers, dates and amounts of claims and allowances for repairs, and names of claimants. Also contains: Record of free turnpike directors, entry 23. Arr. numer. by road district no. Indexed alph. by name of claimant. Hdw. 430 pp. 16 x 10 x 1 $\frac{1}{4}$. Attic strg. room.

25. SUPERVISORS' REPORT OF TURNPIKE REPAIRS, 1899-1900. 1 vol.

Record of road supervisors' reports of repairs made on free turnpikes, showing dates of report, period covered, and filing; names of supervisor, road, and township; road district number; nature of repairs; and itemized statement of labor and material. Arr. chron. by date of filing. No index. Hdw. 456 pp. 16 x 12 x 2. Attic strg. room.

26. [DITCH PETITIONS], 1884-May 14, 1919. In Miscellaneous, entry 213.

Original petition for locating and constructing ditches, showing date of petition; names of petitioners; kind, description and location of proposed ditch; and location and description of lands to be benefited.

27. [REMONSTRANCES], 1884-1913. In Miscellaneous, entry 213.

Remonstrances protesting the location and construction of proposed ditches, showing date of remonstrance and filing; names of remonstrators; kind, description, and location of proposed ditch; and reasons for filing remonstrance.

28. COMMISSIONERS' DITCH RECORD, 1875-. 16 vols. (2, 3, 5; 1 vol. unlabeled; 2, 7, 1, 4, 6, 8-11, 7, 13, 14). 1837-74 in Highway and Ditch Record Combined, entry 20.

Record of all actions and proceeding on petitions filed for construction and repair of ditches, showing date and nature of action; names of principals; name, location, and description of ditch; and action taken. Arr. chron. by date of

action. Indexed alph.*by name of ditch. Hdw. 1875-1904; hdw. and typed 1905-14; typed 1915-. 600 pp. 18 x 13 x 3. 6 vols., Mar. 1882-Sept. 2, 1884, 1887-Mar. 4, 1890, June 8, 1892-June 22, 1905, attic strg. room; 9 vols., 1875-Feb. 1882, Sept. 3, 1884-86, Mar. 12, 1890-June 7, 1892, Dec. 5, 1905-27, surv. off; 1 vol., 1928-, aud. off.

29. DITCHES, 1908-. 11 f. b.

Contains:

- i. Appointments of viewers, showing date of appointment, names of ditch and viewers, and location and description of ditch.
- ii. Apportionments of costs, showing date of apportionment, names of ditch and landowners, and amount of costs apportioned to each landowner.
- iii. Bids, showing date and amount of bid and names of ditch and bidder.
- iv. Certificates of completion, showing dates of certificate and completion, names of contractor and ditch, and location and description of ditch.
- v. Contractors' bonds, showing date, amount, and condition of bond, and names of contractor, sureties, and ditch.
- vi. Contracts, showing date, amount, and conditions of contract and names of contractor and ditch.
- vii. Notices of acceptance by board of commissioners, showing dates of notice and completion, names of contractor and ditch, and cost of construction.
- viii. Petitions, showing dates of petition and filing, names of petitioners and ditch, and location and description of ditch.
- ix. Proofs of publication of notices for bids, showing dates of notice and receiving bids; name, location, and description of ditch; names of newspaper and publisher; and affidavit by publisher.
- x. Remonstrances, showing date of remonstrance and filing, names of petitioners and ditch, and reason for filing remonstrance.
- xi. Viewers' reports, showing dates of report and filing, names of viewers and ditch, and location and description of ditch, and action taken.

Arr. by name of ditch. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

30. SURVEYORS' REPORTS, 1907-11, 1913-19, 1927-. 1 f. b. Surveyors' reports of ditch surveys, showing date of report and name, location, and description of ditch. Arr. chron. by date of survey. No index. Hdw. 11 x 5 x 14. Aud. off.

31. RECORD, 1888-91. 1 vol.

Record of actions and proceedings relative to construction of courthouse, showing date and nature of action, names of principals, specifications, record of bids and contracts, and action taken. Arr. chron. by date of action. No index. Hdw. 448 pp. 18 x 13 x 3. Aud. off.

LIQUOR LICENSES

32. [APPLICATION TO SELL LIQUOR], 1908-13. In Miscellaneous, entry 213. Discontinued as county record 1918. Subsequent records kept by State Excise Director, 1933-34, and by Alcohol Beverage Commission of Indiana, 1935-.

Applications for licenses to sell alcoholic liquors, showing dates of application and filing, name and address of applicant, term of license, bond requirements, amount of fee, and location and description of place of business.

33. BOND RECORD, Dec. 6, 1867-Dec. 4, 1872. 1 vol. 1837-Dec. 5, 1867 in Commissioners Record, entry 2; Dec. 5, 1872-June 9, 1900 in Record of Trustees' and Assessors' Bonds, entry 345; Nov. 16, 1904-18 in Record of Trustee Bonds, entry 346. Discontinued as county record 1918; subsequent records kept by State Excise Director 1933-34 and by Alcohol Beverage Commission of Indiana 1935-.

Record of bonds posted by dealers of alcoholic beverages, showing date, amount, and conditions of bond; names of dealer and sureties; and location and description of place of business. Arr. chron. by date of bond. Indexed alph. by name of dealer. Hdw. 200 pp. 18 x 13 x 3. Attic strg. room.

MISCELLANEOUS RECORDS

34. [APPOINTMENT OF SHERIFF], Apr. 19, 1935. In Miscellaneous, entry 213.

Appointment of sheriff by board of commissioners, showing date and term of appointment, and name of appointee.

MAPS

35. WELLS COUNTY, 1936. 1 map.

Communication map, showing names and boundaries of civil townships and location of railroads, highways, and bridges. Published by Indiana Highway Survey Commission. Blueprint. No scale given. 35 x 43. Comrs.' room.

II. COUNTY COUNCIL

EVOLUTION AND STRUCTURAL ORGANIZATION

The county council has existed in Wells County ever since 1899 under the requirements of an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. Each councilman is elected for a term of 4 years and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts, and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.² Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor, in person or by deputy, serves as clerk of the county council.⁵ At an organization meeting held on the second Saturday after its election, the council chooses from its members a presiding officer and a presiding officer pro tem, who serve for the terms of their respective offices as councilmen.⁶

Each member must have been an inhabitant of the county during 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any State, township, or municipal office.⁷ Each councilman must take an oath that he will support the State and Federal Constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

A councilman receives a salary of \$10 per year plus \$10

¹ Acts 1899; Burns 26-501; Baldwin 5365.

² Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548; no Baldwin.

⁵ Acts 1899; Burns 26-502; Baldwin 5373.

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5263.

State ex rel. Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909). Op. Atty. Gen. 1936, p. 412.

⁸ Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary as county auditor has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal causes any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹² If any councilman is convicted of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties.¹⁴ Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the General Assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5367.

¹⁰ Acts 1899, ch. 154, sec. 3.

¹¹ Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7531. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899, Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529, Baldwin 5393. *Snider v. State ex rel. Leap*, 206 Ind. 474, 190 N. E. 178 (1934).

¹⁷ Rev. L. 1831, ch. 20, sec. 9. Rev. Stat. 1838, ch. 21, sec. 9. Rev. Stat. 1843, ch. 12, sec. 43. Acts 1851-52, ch. 7, sec. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22; ch. 81, secs. 29, 35. Acts 1859, ch. 133, sec. 8. Acts 1861, ch. 95. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1867, ch. 61. Acts 1875, ch. 7, sec. 4. Acts 1881, ch. 63, sec. 27.

FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates, sets a township tax rate to cover cost of assessment of township taxes,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ fixes the amounts of salaries of deputy officers and other assistants of county officers;²¹ and appoints a member of the local alcoholic beverage board.²² In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²³ Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the State Board of Tax Commissioners.²⁴ In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁵ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the State Board of Tax Commissioners; and no bonds or notes bearing interest greater than 5 percent

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-519, 26-520; Baldwin 5371, 5379, 5383, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1841 suppl., 26-522; Baldwin, 1935 suppl., 5386. Op. Atty. Gen. 1937, p. 434 (welfare funds).

Special assignments by city against county property. Acts 1917; Burns 48-3330; Baldwin 5571. Acts 1923; Burns 48-3409; Baldwin 14623.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

²¹ Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1935, 1937, 1941; Burns, 1941 suppl., 12-402; Baldwin, 1941 suppl., 3764-6(13).

²³ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

²⁴ Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735. O'Rourke v. Board of County Comrs. 215 Ind. 195, 18 N. E. (2d) 380 (1939).

²⁵ Acts 1899; Burns 26-528; Baldwin 5392. State ex rel. Simpson v. Meeker, 182 Ind. 240, 105 N. E. 906 (1914); State ex rel. Test v. Steinwedel, 203 Ind. 457, 180 N. E. 865 (1932); Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

per annum can be issued without the approval of said board.²⁶

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;²⁷ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;²⁸ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁹ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.³⁰

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase for less than par any bond, warrant, claim, or demand against the county.³¹

The county council holds a regular annual meeting on the first Tuesday after the first Monday in September of each year. Special meetings may be called by the auditor or a majority of the members of the council.³² The sessions are open to the public and may continue until all business is completed.³³ A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³⁴ A greater vote is required in order to expel a member (two-thirds),³⁵ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),³⁶ adopt appropriations at a special meeting (two-thirds),³⁷ and to levy taxes for the maintenance of county

²⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332, 64-1333; Baldwin 15736, 15737, Citizens Bank v. Burnettsville, 98 Ind. App. 92, 179 N. E. 724 (1932).

²⁷ Acts 1929; Burns 32-105; Baldwin 4879.

²⁸ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁹ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

³⁰ Acts 1935; Burns, 1941 suppl., 26 2011; Baldwin, 1935 suppl., 5240-1.

³¹ Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

³² Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³³ Acts 1899; Burns 26-508; Baldwin 5372.

³⁴ Acts 1899, Burns 26-511; Baldwin 5375.

³⁵ Acts 1899; Burns 26-512; Baldwin 5376.

³⁶ Acts 1899; Burns 26-510; Baldwin 5384.

³⁷ Acts 1899, 1907, 1913, 1937, Burns, 1941 suppl., 26-521; Baldwin, 1937 suppl., 5385.

roads (unanimous).³⁸ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.³⁹

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.⁴⁰ He keeps separate accounts for each specific item of appropriation made by the council.⁴¹

36. COUNTY COUNCIL RECORD, 1899-. 1 vol.

Minutes of meetings of county council, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 1899-1915; typed 1916-. 600 pp. 18 x 13 x 3. Aud. off.

37. COUNTY COUNCIL PAPERS, 1910-. 9 f. b.

Contains:

- i. Budget estimates by county officials, showing date of estimate, names of official and office, and itemized estimate of expenses. Arr. chron. by date of estimate.
- ii. Copies of minutes of meetings, showing information as in entry 36. Arr. chron. by date of meeting.
- iii. Copies of notices to taxpayers of meetings to be held, showing date, place, and purpose of meeting; date of notice; and name of newspaper in which published. Arr. chron. by date of notice.
- iv. Copies of ordinances authorizing appropriations, showing date, amount, and purpose of ordinance. Arr. chron. by date of ordinance.
- v. Copies of tax levies established by various taxing units, showing dates of filing and period covered, names of officials, taxing unit, and funds; itemized rate for each fund; and total levy. Arr. chron. by date of filing.

No index. Hdw. and typed. 11 x 5 x 13. Aud. off.

III. CLERK OF THE CIRCUIT COURT

LEGAL STATUS

The office of clerk of the circuit court has existed in Wells County ever since 1837 under the requirements of

³⁸ Acts 1902 (Spec. Sess.); Burns 35-905; Baldwin 8715.

³⁹ Acts 1899; Burns 26-510; Baldwin 5374.

⁴⁰ Acts 1899; Burns 26-509; Baldwin 5373. State ex rel. Van Der Veer v. Butcher, 205 Ind.

117, 185 N. E. (1925)

⁴¹ Acts 1899; Burns 26-523; Baldwin 5387.

the Constitution of 1816 and the Constitution of 1851. The clerk of the circuit court (commonly referred to as "county clerk") is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ must not practice law;⁷ must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder;⁸ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁹

Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.¹⁰

The clerk receives a regular salary of \$1,760 per year.¹¹ He receives \$75 for his services rendered at each general election, primary election, or special election.¹² For each

¹ Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4, ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Rev. L. 1824, ch. 36, secs. 1, 3. Acts 1843-44 (general), ch. 3, sec. 1 (Wells Organization Act). 2 Rev. Stat. 1852; Burns 49:2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49:201; Baldwin 1095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11, art. 6, sec. 2.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns, 1941 suppl., 10:114; Baldwin, 1941 suppl., 26:6. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Acts 1816-17, ch. 2, sec. 4. Rev. L. 1824, ch. 24, sec. 3. Rev. Stat. 1852; ch. 15, sec. 1, ch. 17, sec. 5. Acts 1851, Burns 10:378; Baldwin 28:0. 1 Rev. Stat. 1851; Burns 49:106, 49:120; Baldwin 1066, 1905. Acts 1815-16, Burns 49:120; Baldwin 130:3. 2 Rev. Stat. 1852; Burns 49:2701, Baldwin 1427. Acts 1871, Burns 49:2701, 49:274, Baldwin 1440, 1441.

⁹ Const. 1816, art. 11, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3, sec. 3. Rev. L. 1824, ch. 24, sec. 7. Rev. L. 1831, ch. 15, sec. 5. Acts 1805, Burns 10:378; Baldwin 7660. 1 Rev. Stat. 1851; Burns 49:104, 49:104, Baldwin 130:4, 1905.

¹⁰ Const. 1816, art. 5, sec. 8, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1821, ch. 17, sec. 24. Acts 1923, Burns 49:1004, Baldwin 7534.

¹² Acts 1825, Burns, 1841 suppl., 28:134, Baldwin, 1845 suppl., 7109:1.

registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents; and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the Governor's office, to receive State ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck State School, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the State Department of Treasury for the collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.¹⁴

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the Supreme Court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which

¹³ Acts 1933, 1935; Burns, 1941 suppl., 29-329; Baldwin, 1935 suppl., 7327.

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1941; Burns, 1941 suppl., 11-1404(a) Baldwin, 1941 suppl., 4836-1. Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1205; Baldwin 7561 to 7565. Acts 1919; Burns 60-722; Baldwin 4836. Acts 1933, 1937; Burns, 1941 suppl., 64 2613(a); Baldwin, 1937 suppl., 15900(a). Op. Atty. Gen. 1938, p. 303; 1939, p. 258.

¹⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13167, 13168. Acts 1895; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

official oaths.²³ Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the Secretary of State for a license to operate a collection agency.²⁴ Formerly he kept a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriage.²⁵

The clerk issues licenses for physicians, surgeons,²⁶ midwives,²⁷ osteopaths,²⁸ chiropractors, drugless healers,²⁹ dentists,³⁰ optometrists,³¹ nurses,³² hunting, trapping,

²³ 1 Rev. Stat. 1852, Acts 1855; Burns 49-2503; Baldwin 15016.

²⁴ Acts 1937; Burns, 1941, suppl., 10-5001, 10-5002; Baldwin, 1837 suppl., 2468-5, 2468-6.

²⁵ Acts 1817-18 (general), ch. 24, secs. 3, 4, 6, 7. Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 25-155; Baldwin 8398. 1 Rev. Stat. 1852, Acts 1939; Burns, 1941 suppl., 44-201; Baldwin, 1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-20; Baldwin 5624. Acts 1905, 1917, 1941; Burns, 1941 suppl., 44-105; Baldwin, 1941 suppl., 56-5. Acts 1934, Burns, 1941 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." In 1978 the Supreme Court held that an injunction could be granted to prevent the clerk from violating this law. *Swiegiert v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

The 1939 law provides that the license may be issued in "the county in which application for such license is made."

The 1939 law also provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938); *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁶ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 163, sec. 10). Acts 1897; Burns 6-100; Baldwin 10705.

²⁷ Acts 1897; Burns 63-1002; Baldwin 10709.

²⁸ Acts 1901; Burns 63-136; Baldwin 10716.

²⁹ Acts 1927; Burns 63-1312; Baldwin 10713.

³⁰ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1941 suppl., 63-504; Baldwin, 1935 suppl., 5599. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³¹ Acts 1907; Burns 63-1000; Baldwin 13180. Acts 1907, 1915; Burns, 1941 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³² Acts 1905, 1913, 1931, Burns 63-903; Baldwin 13056.

fishing,³³ poultry dealers,³⁴ junk dealers,³⁵ and for carrying pistols.³⁶ Formerly he issued licenses for veterinarians,³⁷ brokers,³⁸ stallions,³⁹ petty money lenders,⁴⁰ and sale of liquor.⁴¹

The clerk records timber brands,⁴² assumed business names,⁴³ trade marks and trade names used on bottles and other containers,⁴⁴ and certificates of patents granted by the United States Patent Office.⁴⁵ Formerly he kept a negro register,⁴⁶ a register of certificates of agents of foreign insurance companies,⁴⁷ a roll of the attorneys of the county,⁴⁸ and lists of shareholders of all banks doing business in the county;⁴⁹ and he recorded limited partnerships.⁵⁰

³³ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-202, 11-310; Baldwin §302, §309. Acts 1937; Burns, 1941 suppl., 11-1403. Baldwin, 1937 suppl., 829-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

³⁴ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486

³⁵ Acts 1905; Burns 42-703; Baldwin 10462.

³⁶ The law authorizes the judge of the circuit court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the Superintendent of State Police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1941 suppl., 10-4736; Baldwin, 1937 suppl., 2569-5.

Former laws (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

³⁷ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁸ Acts 1940-41 (general), ch. 5, sec. 18.

³⁹ Acts 1899, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the Stallion Enrollment Board).

⁴⁰ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6)

⁴¹ Acts 1917, ch. 4, secs. 6, 12.

⁴² Acts 1901; Burns 51-378; Baldwin 13265.

⁴³ Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁴⁴ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁴⁵ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁴⁶ 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1)

⁴⁷ Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 100, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

⁴⁸ Rev. Stat. 1843, ch. 38, sec. 93.

⁴⁹ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁵⁰ Rev. Stat. 1838, ch. 78, secs. 5-7.

The clerk keeps a register of estrays and articles adrift;⁵¹ records appointments of railroad agents for service of process;⁵² records the commissions, oaths, and terminations of authority of railroad policemen;⁵³ administers oaths;⁵⁴ takes acknowledgments of written instruments;⁵⁵ and distributes session laws enacted by the general assembly.⁵⁶ Formerly the clerk filed public contracts for support of paupers;⁵⁷ filed enumerations of soldiers and sailors;⁵⁸ kept standards of weights and measures;⁵⁹ kept plats showing changes in routes of roads and canals;⁶⁰ and performed the duties of the office of school commissioner if there was no school commissioner.⁶¹

The clerk files petitions and remonstrances concerning the establishment of a county public library and notifies the judge of the circuit court, the county superintendent of schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.⁶²

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.⁶³ He reports to the county auditor and treasurer

⁵¹ Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. L. 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13, 33, 13243.

⁵² Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331

⁵³ Acts 1827; Burns 55-3402, 55-3408; Baldwin 14648, 14654.

⁵⁴ Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. L. 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1405.

⁵⁵ Acts 1817-18 (general), ch. 28, sec. 12. Rev. L. 1824, ch. 82, sec. 12. Rev. L. 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁵⁶ Acts 1933, 1235; Burns, 1941 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

⁵⁷ Rev. L. 1824, ch. 72, sec. 3. Rev. L. 1831, ch. 69, sec. 2.

⁵⁸ Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1) Acts 1912, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

⁵⁹ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. L. 1824, ch. 116. Rev. L. 1831, ch. 110.

⁶⁰ Rev. Stat. 1838, ch. 17, sec. 56.

⁶¹ Acts 1826-37 (general), ch. 21, sec. 1.

⁶² Acts 1917, 1921, 1927, 1929; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁶³ Acts 1927; Burns, 1941 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1428-1, 1428-2.

Loss of funds through failure of depository. *State ex rel Jackson v. Middleton*, 215 Ind. 219, 19 N. E. (2d) 470 (1929); *Commercial Casualty Ins. Co. v. Board of County Comrs.*, 215 Ind. 440, 19 N. E. (2d) 476 (1939).

all fees and fines collected by him.⁶⁴ All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the Attorney General.⁶⁵

The clerk keeps a cashbook,⁶⁶ a daily balance record,⁶⁷ and a register of fees received by him;⁶⁸ and must preserve in his office all records and writings appertaining to his official duties.⁶⁹ On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.⁷⁰

The State Board of Accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; and record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.⁷¹

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvassers," "County Board of Election Commissioners," "County School Fund Board," and "Registration Officer." Former functions, duties, and records of the clerk are discussed in the essays entitled "Auditor" (transferred to auditor in 1841), "Court of Common Pleas (1853-73)," and "Probate Court (1837-53)."

⁶⁴ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. L. 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁶⁵ Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

⁶⁶ Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

⁶⁷ Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13344-44.

⁶⁸ Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

⁶⁹ Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. L. 1821, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. L. 1841, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷⁰ Acts 1817-18 (general), ch. 13, sec. 18. Acts 1941, ch. 24, sec. 5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3387, 1431. 1 Rev. Stat. 1852, Burns 41-03; Baldwin 5634. Fidelity Bldg. & Sav. Union v. Pyrd, 154 Ind. 47, 55 N. E. 867 (1899), Midland Ry. Co. v. State ex rel. Harrison, 11 Ind. App. 1-3, 38 N. E. 57 (1894).

⁷¹ Acts 1889; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1929, by W. Davis Hamilton.

RECEIPTS AND DISBURSEMENTS

38. CLERK'S DAILY BALANCE, 1913-27, 1931-. 8 vols. (1-3, 6-10).

Record of daily balances, showing date of balance; amounts of depository balance, cash in office at beginning of day, receipts, deposits, disbursements, and totals; names of fund and depository; and itemized statement of cash in office and depository balance at close of day. Arr. chron. by date of balance. No index. Hdw. 200 pp. 11 x 10 x 1 $\frac{1}{4}$. 5 vols., 1913-27, 1931-34, attic strg. room; 3 vols., 1935-, clk. off.

39. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1859-1911, Apr. 1924-. 9 vols. (1 vol. unlabeled; 1-5, 1-3). Title varies: Cash Book, 1859-1911, 6 vols.

Daily record of receipts and disbursements, showing dates and amounts of receipt and disbursement; receipt and warrant numbers; names of payer, payee, and fund; total receipts and disbursements; and balance. This is a combination of two records intercurrently kept separately: Cashbook of receipts, entry 40; cashbook of disbursements, entry 41. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 320 pp. 18 x 16 x 3. 7 vols., 1859-1911, Apr. 1924-May 17, 1930, attic strg. room; 1 vol., May 18, 1930-1935, clk. rec. room; 1 vol., 1936-, clk. off.

40. CASH BOOK [Receipts], 1912-Mar. 1924. 2 vols. (1, 2). 1859-1911, Apr. 1924-in Cash Book of Receipts and Disbursements, entry 39.

Daily record of receipts, showing date, number, and amount of receipt, names of payer and fund; and total receipts. Arr. chron. by date of receipt. No index. Hdw. 465 pp. 19 x 14 x 3. Attic strg. room.

41. CASH BOOK OF DISBURSEMENTS, 1912-Mar. 1924. 1 vol. 1859-1911, April 1924-in Cash Book of Receipts and Disbursements, entry 39.

Daily record of disbursements, showing date and amount of disbursement, warrant number, names of payee and fund, and total disbursements. Arr. chron. by date of disbursement. No index. Hdw. 640 pp. 16 x 13 x 3. Attic strg. room.

42. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1875-. 7 vols. (1-4; 3 vols. unlabeled). Title varies: Register of Witness and other Fees, 1875-1916, 4 vols.

Record of receipts and disbursements of fees and funds held in trust, showing date, nature, and amounts of receipt and

disbursement; cause number; and names of plaintiff, defendant, payer, and payee. Arr. chron. by dates of receipt and disbursement. Indexed alph. by name of payee. Hdw. 400 pp. 18 x 13 x 2½. 6 vols., 1875-1921, attic strg. room; 1 vol., 1922-, clk. off.

43. SUPPORT DOCKET, 1912-. 2 vols. (1, 2).

Record of receipts and disbursements for support and alimony, showing dates of court order, receipt, and disbursement, title and number of cause; and names of payer and payee. Arr. chron. by date of court order. Indexed alph. by name of payer. Hdw. 425 pp. 16 x 12 x 2½. Clk. off.

44. REGISTER OF FEES, 1882-86. 1 vol.

Register of fees collected, showing dates and amounts of collections; names of plaintiff, defendant, and payer; number and nature of cause; amount paid to treasurer; and quietus number. Arr. chron. by date of collection. No index. Hdw. 200 pp. 6 x 10 x 1½. Attic strg. room.

45. RECORD OF FINES AND FORFEITURES, 1910-11. 1 vol.

Record of fines and forfeitures collected, showing date, nature and amount of collections; name of payer; and date and amount of payment to treasurer. Arr. alph. by name of payer. No index. Hdw. 325 pp. 18 x 12 x 2. Attic strg. room.

OFFICIAL BONDS

46. OFFICERS' BONDS, 1893-. 2 f. b.

Original bonds posted by county officials, showing information as in entry 47. Also contains: Notary bonds, 1893-1928, entry 49; constable and justice of peace bonds, 1893-1913, entry 51. Arr. chron. by date of approval. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

47. OFFICIAL BOND RECORD, 1853-. 4 vols. (A, 2, 1, 2).

1837-52 in Deed Record, entry 92.

Transcripts of bonds posted by county officials, showing date, amount, and conditions of bond; dates of filing and approval; and names of official, office, and sureties. Also contains: Notarial bond record, 1853-90, entry 50; justice bond record, 1853-99, entry 52; constable bond record, 1853-99, entry 53. Arr. chron. by date of filing. Indexed alph. by names of sureties; also separate index, 1899-1909, entry 48. Hdw. 550 pp. 18 x 13 x 3. 3 vols., 1853-1924, attic strg. room; 1 vol., 1925-, clk. off.

48. OFFICIAL BOND INDEX, 1889-1909. 1 vol.

Index to official bond record, entry 47, showing names of official, office and sureties; date of filing; amount of

bond, and volume and page reference to recording. Arr. alph. by name of official. Hdw. 300 pp. 18 x 13 x 2 $\frac{1}{2}$. Attic strg. room.

49. NOTARY BONDS, 1929-. 1 f. b. 1893-1928 in Officers' Bonds, entry 46.

Original bonds posted by notaries public, showing information as in entry 50. Arr. chron. by date of filing. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

50. NOTARIAL BOND RECORD, 1891-. 4 vols. (2-5). 1837-52 in Deed Record, entry 92; 1853-90 in Official Bond Record, entry 47.

Transcripts of bonds posted by notaries public, showing dates of bond and filing, names of notary and sureties, and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of notary. Hdw. 250 pp. 16 x 12 x 2. 1 vol., 1891-Mar. 5, 1905, attic strg. room; 3 vols., Sept. 1905-, clk. off.

51. CONSTABLE AND JUSTICE OF PEACE BONDS, 1914-. 1 f. b. 1893-1913 in Officers' Bonds, entry 46.

Contains:

- i. Original bonds posted by justices of peace, showing information as in entry 52.
- ii. Original bonds posted by constables, showing information as in entry 53.

Arr. chron. by date of filing. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

52. JUSTICE BOND RECORD, 1900-. 1 vol. (3). 1837-52 in Deed Record, entry 92; 1853-99 in Official Bond Record, entry 46.

Transcripts of bonds posted by justices of peace, showing dates of bond and filing; names of justice, township, and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of justice. Hdw. 425 pp. 16 x 12 x 2. Clk. off.

53. CONSTABLE BOND RECORD, 1900-. 1 vol. 1837-52 in Deed Record, entry 92; 1853-99 in Official Bond Record, entry 46.

Transcripts of bonds posted by constables, showing dates of bond and filing; names of constable, township, and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of constable. Hdw. 433 pp. 16 x 12 x 2 $\frac{1}{2}$. Clk. off.

54. REGISTER OF OFFICIAL BONDS, 1837-59, 1884-1928. 3 vols. (1 vol. unlabeled; 1, 2).

Register of bonded county and township officials, showing

names of official, office, and sureties; dates appointed or elected, commissioned, and qualified; term of office; and amount of bond. Arr. chron. by date appointed or elected. Indexed alph. by name of official. Hdw. 425 pp. 17 x 12 x 2. 1 vol., 1837-59, attic strg. room; 2 vols., 1884-1928, clk. off.

LICENSES AND CERTIFICATES

MARRIAGES

55. MARRIAGE RECORD, 1837-. 18 vols. (1, 2, C, 4-18). Record of marriage licenses issued and marriage certificates returned, showing dates of license, marriage, and return and names and addresses of bride, groom, and person officiating. Also contains: Applications for marriage licenses, 1922-, entry 57; and marriage affidavits, 1887-, entry 58. Arr. chron. by date of license. Indexed alph. by names of bride and groom; also separate index, entry 56. Hdw. 500 pp. 18 x 13 x 3. Clk. rec. room.

56. GENERAL INDEX MARRIAGE LICENSE, 1837-. 2 vols. (1, 2). Index to marriage record, entry 55, showing date of license, names of bride and groom, and volume and page reference to recording. Arr. alph. by names of bride and groom. Hdw. 500 pp. 16 x 12 x 3. Clk. rec. room.

57. APPLICATIONS FOR MARRIAGE LICENSE, 1905-21. 12 vols. (1-4, 6-13). 1922-in Marriage Record, entry 55. Record of applications for marriage licenses, showing date of application; names, addresses, ages, dates and places of birth, and occupation of bride, groom, and parents; and previous marital status of bride and groom. Arr. chron. by date of application. Indexed alph. by name of groom. Hdw. 600 pp. 16 x 12 x 3. Attic strg. room.

58. MARRIAGE AFFIDAVITS, 1871-86. 1 vol. 1887-in Marriage Record, entry 55. Record of affidavits by witnesses attesting to facts as stated in applications for marriage licenses, showing date of affidavit and names of bride, groom, and affiant. Arr. chron. by date of affidavit. Indexed alph. by name of affiant. Hdw. 320 pp. 16 x 10 x 1½. Attic strg. room.

59. CONSENT TO MARRY, 1905-28. 1 f. b. Written consents of parents and guardians to marriages of minors, showing date of consent, name and age of minor, and name of parent or guardian. No obvious arr. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

60. MARRIAGE LICENSE RETURNS, 1904-. 12 f. b. Original certificates of marriages returned to clerk by per-

sons performing ceremonies, showing dates of certificate, marriage, and return; names and addresses of bride and groom; and name and title of officiator. Arr. chron. by date of return. No index. Hdw. 12 x 5 x 12. 11 f. b., 1904-38, clk. rec. room; 1 f. b., 1939-, clk. off.

PROFESSIONAL

61. [CERTIFICATES], 1835-. 2 f. b.

Original certificates issued by various State boards and filed with clerk to obtain licenses, consisting of:

- i. Certificates issued by State Board of Medical Registration and Examination to physicians, showing information as in entry 63.
- ii. Certificates issued by State Board of Dental Examiners to dentists, 1899-, showing information as in entry 65.
- iii. Certificates issued by State Board of Registration and Examination in Optometry to optometrists, 1907-, showing information as in entry 66.
- iv. Certificates issued to nurses by State Board of Registration and Examination of Nurses, 1906-, showing information as in entry 67.

Arr. chron. by date of certificate. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

62. DEALERS' LICENSES TO SELL FIREARMS, [Freeholders Affidavits-Drugless Physicians Certificates], 1901-. 1 f. b.

Contains:

- i. Affidavits by freeholders certifying 5 years' former veterinary practice, showing date of affidavit, names and addresses of affiant and veterinarian, and history of veterinarian's former practice.
- ii. Original certificates issued by State Board of Medical Registration and Examination to drugless physicians, showing information as in entry 64.

Also contains: Permits, 1928-, entry 215; firearm dealers' licenses, 1925-, entry 243; dealers' reports, 1925-, entry 244; affidavits of primary election inspectors, 1930-, entry 368. No obvious arr. No index. Hdw. and typed. 12 x 5 x 12. Clk. off.

63. PHYSICIAN'S LICENSE, 1831-. 3 vols. (2 vols. unlabeled; 1). Title varies: Register of Physicians and Accouchers, 1831-June 1884, 1 vol.; and Record of Physician's Certificate, Aug. 1884-Mar. 3, 1897, 1 vol.

Transcripts of certificates issued by State Board of Medical Registration and Examination and record of licenses issued by clerk to physicians to practice medicine, surgery, and obstetrics in State, showing dates of certificate, diploma, license, and recording; name, date, and place of birth of physician; name and address of college attended; and nature and number of certificate. Arr. chron. by date of recording. Indexed alph. by name of physician. Hdw. 360 pp. 16 x 12 x 2. 2 vols., 1881-Mar. 3, 1897, attic strg. room; 1 vol., July 7, 1897-, clk. off.

64. DRUGLESS PHYSICIAN'S LICENSE RECORD, 1928-. 1 vol. Transcripts of certificates issued by State Board of Medical Registration and Examination and record of licenses issued by clerk to drugless physicians, showing date of certificate, diploma and license; name and date and place of birth of physician; name and address of college attended; and nature of system of practice. Arr. alph. by name of physician. No index. Hdw. 100 pp. 14 x 9 x 1 $\frac{1}{2}$. Clk. off.

65. RECORD OF DENTIST LICENSE, 1899-. 1 vol. (1). Transcripts of certificates issued by State Board of Dental Examiners and record of licenses issued by clerk to dentists to practice in county, showing dates and numbers of certificate and license; name, age, place of birth, and address of dentist; and name and address of college attended. Arr. chron. by date of certificate. Indexed alph. by name of dentist. Hdw. 150 pp. 16 x 12 x 1. Clk. off.

66. OPTOMETRY LICENSE RECORD, 1907-. 1 vol. Transcripts of certificates issued by State Board of Registration and Examination in Optometry and record of licenses issued by clerk to optometrists to practice in county, showing dates and numbers of certificate and license, name and address of optometrist, and name and address of college attended. Arr. chron. by date of certificate. Indexed alph. by name of optometrist. Hdw. 100 pp. 14 x 9 x 1. Clk. off.

67. REGISTER OF TRAINED NURSES, 1906-. 1 vol. Transcripts of certificates issued by State Board of Registration and Examination of Nurses and record of licenses issued by clerk to nurses to practice in county, showing dates of certificate, registration, and license; name and address of nurse; certificate number; and statement of qualifications. Arr. chron. by date of registration. No index. Hdw. 100 pp. 9 x 9 x 1. Clk. off.

68. VETERINARY RECORD, 1901-4. 1 vol. Discontinued as county record; licenses issued by State Board of

Veterinary Medical Examiners, 1905-May 14, 1909 and by State Veterinary Examining Board, May 15, 1909-.

Record of applications of and licenses issued to veterinarians to practice veterinary medicine and surgery upon presentation of diploma from veterinary college or freeholder's affidavit certifying 5 years' former practice, showing date of diploma or affidavit, dates and numbers of application and license, and names and addresses of veterinarian and college attended or freeholders. Arr. chron. by date of application. Indexed alph. by name of veterinarian. Hdw. 160 pp. 18 x 12 x 1. Clk. off.

COMMERCIAL

69. [APPLICATION FOR JUNK DEALER'S LICENSE], 1935-. In Sheriff's Bills For Persons of Unsound Mind, entry 135.

Original applications for licenses to purchase junk in county, showing information as in entry 70.

70. JUNK DEALER'S LICENSE, 1905-. 2 vols. (1, 2). Title varies: Junk Dealer's Record, 1905-Sept. 6, 1909, 1 vol.

Transcripts of applications and record of licenses issued to purchase junk in county, showing dates of application and license and name and business address of dealer. Arr. chron. by date of application. Indexed alph. by name of dealer. Hdw. 150 pp. 14 x 9 x 1. 1 vol., 1905-Sept. 6, 1909; attic strg. room; 1 vol. Oct. 16, 1909-, clk. off.

71. POULTRY DEALER'S LICENSE, 1917-. 1 f. b.

Original poultry dealer's applications filed with clerk to obtain licenses to purchase poultry in State, showing information as in entry 72. Arr. chron. by dates of filing. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

72. RECORD OF POULTRY DEALER'S LICENSE, 1917-. 2 vols. (1, and 1 vol. unlabeled).

Transcripts of applications and record of licenses issued to purchase poultry in State, showing dates of application and license and name and business address of dealer. Arr. chron. by date of license. Indexed alph. by name of dealer. Hdw. 200 pp. 10 x 8 x 1. Clk. off.

73. PARTNERSHIP CERTIFICATES, 1909-. 1 f. b.

Original certificates of firms and partnerships engaged in business under names other than their own, showing information as in entry 74. Arr. chron. by date of filing. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

74. PARTNERSHIP RECORD, 1909-. 2 vols. (1, 2).

Transcripts of certificates of firms and partnerships engaged in business under names other than their own, showing dates of certificate and filing, names and addresses of firm or partnership and members, and nature of business. Arr. chron. by date of filing. Indexed alph. by name of firm or partnership. Hdw. 200 pp. 16 x 12 x 2. Clk. off.

75. PETTY MONEY LENDER'S LICENSE, 1913-16. 1 vol. (1).

Discontinued as county record. 1917-32 issued by Auditor of State; 1933-issued by State Commission for Financial Institutions.

Record of licenses issued to petty money lenders, showing date and number of license, name and business address of licensee, amount of bond, and names of sureties. Arr. chron. by date of license. Indexed alph. by name of licensee. Hdw. 132 pp. 14 x 10 x 1. Clk. off.

76. SIRE'S LICENSE, 1891-1902. 1 f. b. Discontinued as county record Dec. 31, 1913. Subsequent records kept by Stallion Enrollment Board.

Original application for stock sire licenses, showing information as in entry 77. Arr. chron. by date of application. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

77. RECORD OF APPLICATION FOR STOCK SIRE LICENSE, 1890-1913. 1 vol. (1). Discontinued as county record Dec. 31, 1913. Subsequent records kept by Stallion Enrollment Board.

Record of application for stock sire licenses issued, showing dates of application and license; name and address of owner; name, description, and pedigree of sire; and license number. Arr. chron. by date of application. Indexed alph. by name of owner. Hdw. 320 pp. 18 x 12 x 3. Clk. off.

78. REGISTER OF INSURANCE CERTIFICATES, 1876-1919, 2 vols.

(1, 2). Agents' licenses now issued by State Commissioner of Insurance are valid in all counties.

Record of all certificates issued by Auditor of State to agents of insurance companies authorizing them to transact business in county, showing dates of certificate and filing, names and addresses of company and agent, and financial statement of company. Arr. alph. by name of company. No index. Hdw. 200 pp. 16 x 12 x 2. 1 vol., 1876-1910, attic strg. room; 2 vols., 1911-19, clk. off.

79. REGISTER OF AGENTS, 1897-1917. 1 vol. (1).

Record of names of insurance agents who were issued certificates by Auditor of State to transact business in county, showing date of certificate and filing and names and addresses of

company and agents. Arr. chron. by date of filing. Indexed alph. by name of agent. Hdw. 170 pp. 16 x 12 x 1½. Clk. off.

80. PHARMACIST APPLICATION RECORD, July 13, 1913-May 3, 1921. 1 vol.

Record of applications and permits to retail intoxicating liquor and pure grain alcohol for medicinal, chemical, and sacramental uses, showing dates of application and permit, name and business address of applicant, and conditions of permit. Arr. chron. by date of permit. No index. Hdw. 100 pp. 9 x 12 x 1. Clk. off.

HUNTING, FISHING, AND TRAPPING

81. HUNTERS' AND FISHERS' LICENSE, 1907-8, 1913-15, 1934-. 3 vols. and 6 bdls.

Stubs of hunting, fishing, and trapping licenses, showing date, number, and expiration of license; name, age, sex, address, and description of licensee; and amount of fee. Arr. numer. by license no. No index. Hdw. Vols. 150 pp. 13 x 9 x 1; bdls. 7 x 5 x 1½. 3 vols. and 5 bdls., 1907-8, 1913-15, 1934-38, attic strg. room; 1 bdl., 1939-, clk. off.

MISCELLANEOUS RECORDS

82. ESTRAY RECORD, 1837-1903. 2 vols. (1A, 2).

Record of notices of finding and taking up of estrayed animals, showing dates of finding, notice, and filing; names of finder and appraisers; description and valuation of animal; and cost of keeping animal. Arr. chron. by date of filing. No index. Hdw. 350 pp. 16 x 10 x 1½. Attic strg. room.

83. ENROLLMENT OF LATE SOLDIERS, 1890. 1 vol.

Record of enrollment of soldiers and sailors of Civil War and widows and orphans of soldiers and sailors, showing name, address, color, rank and service record of soldier or sailor; name and address of soldier's or sailor's widow; number and sex of children under 16 years of age; cause of death of soldier or sailor; and financial status of soldier, sailor, or widow. Arr. by name of t. and alph. thereunder by name of soldier or sailor. No index. Hdw. 200 pp. 16 x 11 x 1½. Attic strg. room.

84. WORLD WAR VETERANS, undated. 1 vol.

Record of soldiers, sailors, and nurses who served in World War, showing name and address of soldier, sailor, or nurse and enlistment number. Arr. alph. by names of soldier, sailor, or nurse. No index. Typed. 200 pp. 11½ x 9½ x 1½. Clk. rec. room.

85. WITNESS RECORD, 1865-92, 1895-1915. 21 vols. Title varies: Clerk's Docket, 1865-92, 12 vols.

Record of claims filed for witness fees, showing dates of claim and filing; names of witness, plaintiff, and defendant; and itemized statement of mileage and fees claimed. Arr. chron. by date of filing. No index. Hdw. 200 pp. 13 x 10 x 1 1/2. Attic strg. room.

86. STATE BOARD OF ACCOUNTS, STATISTICAL REPORTS, 1928-. 1 f. b.

Contains:

- i. Copies of clerks statistical reports to Indiana Judicial Council, showing dates of report and period covered and number and nature of causes filed, number disposed, and pending.
- ii. Reports of audits of records of clerk's office by field examiners of State Board of Accounts, showing dates of audit and report; names of clerk, county, and field examiner; and statement of conditions of accounts.

Arr. chron. by date of report. No index. Hdw. and typed. 12 x 15 x 12. Clk. rec. room.

87. [APPOINTMENT OF MEMBERS], Apr. 1902-June 1938. In Miscellaneous, entry 213.

Copies of appointments by city council of members to public library board, showing date and term of appointment and name of appointee.

88. CERTIFICATES OF ALLOWANCE, 1898-1919, 1921-. 13 vols. Stubs of clerk's certificates of court allowances, showing dates of certificate and allowance, certificate number, name of payee, and nature and amount of allowance. Arr. numer. by certificate no. No index. Hdw. 185 pp. 16 x 12 x 1. 10 vols., 1931-36, clk. rec. room; 2 vols., 1921-23, 1937-, clk. off.

MAPS

89. MAP OF WELLS COUNTY, INDIANA, 1930. 1 map.

Land tenure and communication map, showing date of map; county and township boundary lines; section, range, and Congressional township lines; section, township and range numbers; plats of lands outside of cities and towns; name of owner and acreage of each tract; names and location of cities, towns, and villages; and locations of highways, railroads, and streams. Drawn by James Redding. Blueprint. Scale: 2" to 1 mile. 48 x 36. Clk. off.

IV. RECORDER

LEGAL STATUS

The office of recorder has existed in Wells County ever since 1837 under the requirements of the Constitution of 1816 and the Constitution of 1851. The recorder is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to the office for more than 8 years in any 12-year period.⁴

The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The recorder must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.¹⁰

¹ Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Rev. L. 1831, ch. 33, sec. 3; ch. 57, sec. 1. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3:01; Baldwin 5469.

Wells Organization Act. Acts 1843-44 (general), ch. 3, sec. 1.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. L. 1831, ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. Carson v. McPhetridge, 15 Ind. 327 (1860).

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881, (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns 1941 suppl. 10-3102; Baldwin 1941 suppl., 2626. McCracken v. State, 27 Ind. 491 (1867).

⁸ Rev. L. 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 46-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State ex rel. Lowry v. Davis, 96 Ind. 539 (1884); State ex rel. Lowry v. Davis, 117 Ind. 307, 20 N. E. 159 (1889).

⁹ Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Acts 1825-26, ch. 18, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

The recorder receives a regular salary of \$1,160 per year.¹¹ He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,840.¹²

For sufficient legal causes the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹³ If the recorder be convicted of a felony the judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

The recorder may appoint one deputy and assistants under authority from the board of commissioners. The county council fixes the salaries of the deputy and assistants in an amount not less than \$75 nor more than \$125 per month.¹⁶ The recorder may require the deputy to give bond.¹⁷ The deputy

¹¹ Acts 1933; Burns 49-1001; Baldwin 7524.

¹² Rev. L. 1824, ch. 41, secs. 7, 9. Acts 1832; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1911 suppl., 49-1009; Baldwin, 1937 suppl., 7539. *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

¹³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const. 1851, art. 6, sec. 9. Rev. L. 1824, ch. 36, sec. 1. Rev. Stat. 1828, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155, ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081, 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13101, 13106, 13107. *Hadley v. Board of County Comrs.*, 4 Blackf. 131 (1835); *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869); *State ex rel. Auli v. Long*, 91 Ind. 351 (1882). Op. Atty. Gen. 1926, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁶ Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 3, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501, Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1911 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 266; 1937, p. 324.

¹⁷ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

must take the oath required of the recorder, may perform all of his official duties, and is subject to the same regulations and penalties.¹⁸ The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁹

FUNCTIONS AND RECORDS

Deeds, mortgages, and various other instruments are presented to the recorder for recording, for which he issues official receipts. He keeps an entry book in which he enters, as filed, all such instruments, noting the day and hour received, which is deemed the time of recording.²⁰

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,²¹ and the intangible tax thereon (if any) must be paid.²² No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.²³

Laws require the Wells County recorder to record all of the following documents: Deeds;²⁴

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²⁰ Rev. L. 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.*, 26 Ind. 179 (1866); *Holman v. Doran*, 56 Ind. 358 (1877); *Gilchrist v. Gough*, 63 Ind. 576 (1878); *Moore v. Glover*, 115 Ind. 367, 16 N. E. 163 (1888).

²¹ Rev. L. 1831, ch. 41, secs. 7-11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1941 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

²² Acts 1923; Burns 64-929; Baldwin 15927.

²³ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

²⁴ Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. *Lowry v. Smith*, 97 Ind. 466 (1884).

land patents;²⁵ probated wills;²⁶ decrees quieting title to lands;²⁷ partitions of real estate under judicial proceedings;²⁸ mortgages; releases and assignments of mortgages;²⁹

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.), Burns 3-1008; Baldwin 894.

Tax deeds (1824 to date) and tax certificates ('843 to 1881). Rev. L. 1824, ch. 86, sec. 12. Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Sheriff's deeds. Acts 1881 (Spec. Sess.) Burns 2-4006, 2-4101, 2-4102, Baldwin 629, 619, 620.

Deeds of school lands and deeds connected with school fund loans. Rev. L. 1831, ch. 86, secs. 7, 24. Rev. Stat. 1838, ch. 94, subch. 12, sec. 7. Rev. Stat. 1843, ch. 13, sec. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

²⁵ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²⁶ Acts 1826-27, ch. 57, sec. 6. Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

²⁷ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record," and requires an index for that record. *Ibid*

²⁸ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555

²⁹ Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 46; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923, Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923, Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122 Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901, Burns 56-709, 56-710, Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713, Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715, Baldwin 996. Acts 1877; Burns 56-716, Baldwin 998. Acts 1889, Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson, 87 Ind. 278 (1881); Mechanics' Bldg. Assn. v. Whitacre, 92 Ind. 547 (1884). Chandler v. Scott, 127 Ind. 226, 26 N. E. 797 (1901). State ex rel McCoy v. Krost, 140 Ind. 41, 39 N. E. 46 (1901). Lincoln Natl. Bank & T. Co. v. Nathan, 215 Ind. 178, 19 N. E. (2d) 243 (1939); Kautman v. Millies, 106 Ind. App. 569, 18 N. E. (2d) 970 (1939).

Chattel mortgages before 1935 (old system). Rev. Stat. 1828, ch. 85 (first act), sec. 1, ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897, Burns 43-301, 33-302, Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1941 suppl., 51-504 to 51-517, Baldwin, 1935 suppl., 1-227-4 to 1-227-17. Voigt v. Mergenthaler Linotype Co., 213 Ind. 3-5, 12 N. E. (2d) 178 (1935); Voigt v. Ludlow Typograph Co., 213 Ind. 329, 12 N. E. (2d) 499 (1938).

conditional sales contracts;³⁰ Federal tax lien notices and releases thereof;³¹ statutory liens of materialmen, building contractors, laborers,³² transfermen,³³ and owners of stallions;³⁴ contracts waiving liens of materialmen, laborers, and building contractors;³⁵ releases of vendors' liens;³⁶ leases of lands;³⁷ surveys establishing a meridian line;³⁸ surveyor's field notes;³⁹ maps and plats;⁴⁰ notices of disputes

Chattel mortgage distinguished from conditional bill of sale. *Stroup v. Myer*, 106 Ind. App. 538, 21 N. E. (2d) 75.

Mortgage covering both realty and personalty. *Lincoln Nat. Bank & T. Co. v. Nathan*, 215 Ind. 178, 19 N. E. (2d) 243 (1939).

School fund loans. Acts 1828-29, ch. 84, secs. 16, 19. Rev. L. 1831, ch. 86, sec. 23. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. *Stockwell v. State ex rel. Johnson*, 101 Ind. 1 (1885).

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

Right to rely on record of mortgage. *Vincennes Savings and Loan Assn. v. St. John*, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

³⁰ Acts 1935; Burns, 1941 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

³¹ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

³² Rev. Stat. 1838, ch. 63, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, ch. 1, sec. 670, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. *State ex rel. Lyons v. Phillips*, 157 Ind. 481, 62 N. E. 12 (1901).

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

³³ Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

³⁴ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

³⁵ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

³⁶ Acts 1937; Burns, 1941 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

³⁷ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120, no Baldwin.

³⁸ Acts 1895; Burns 49-3227 to 49-3229; Baldwin 10849 to 10851.

³⁹ Rev. L. 1831, ch. 102, secs. 5, 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁴⁰ Rev. L. 1831, ch. 77, sec. 7; ch. 105, sec. 14. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9, Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522 Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3252; Baldwin 5432.

of easements;⁴¹ farm names;⁴² fence marks;⁴³ marks and brands of animals;⁴⁴ powers of attorney;⁴⁵ discharges from military service;⁴⁶ charters and proceedings of corporations and associations;⁴⁷ limited partnerships;⁴⁸ bonds of surviving partners;⁴⁹ leases of rolling stock and equipment of railroads;⁵⁰ statutory statements of express companies;⁵¹ certificates revoking the admission of foreign corporations to do business in this State;⁵² and the official bond of the clerk of the circuit court.⁵³

The recorder keeps a miscellaneous record in which he records documents for which he keeps no specific book, including many papers, writings, and documents which no law specifically requires him to record.⁵⁴

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each

⁴¹ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

⁴² Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

⁴³ Acts 1877 (Spec. Sess.), Burns 30-510; Baldwin 7630.

⁴⁴ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴⁵ Acts 1831 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

⁴⁶ Acts 1865, ch. 40, sec. 4. Acts 1865 (Spec. Sess.), ch. 7, sec. 4. Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

⁴⁷ Rev. L. 1831, ch. 60, sec. 5; ch. 64, sec. 1; ch. 67, sec. 1. Acts 1941, ch. 152, sec. 2. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1921, 1941 Burns, 1941 suppl., 25-1102; Baldwin, 1911 suppl., 4552. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909, 1941; Burns, 1941 suppl., 25-3602; Baldwin, 1941 suppl., 9280-2.

⁴⁸ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112, Baldwin 13195, 13197, 13209.

⁴⁹ Acts 1877; Burns 50-304, Baldwin 13216.

⁵⁰ Acts 1891; Burns 55-3716 to 55-3718, Baldwin 15449 to 15451.

⁵¹ Acts 1879 (Spec. Sess.), Burns 55-4102; Baldwin 14401.

⁵² Acts 1929; Burns 25-311; Baldwin 4969.

⁵³ Rev. L. 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852, Burns 49-106; Baldwin 13066.

⁵⁴ Rev. L. 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925, Burns 49-3205, Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209, Baldwin 5471. Information obtained from E. P. Brennan, State Examiner, on May 18, 1929, by W. Davis Hamilton.

of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspapers to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this State, who shall, at all times during office hours, have access to the same, free of all charge and expense."⁵⁵

Laws formerly required the recorder to record the following documents: Indentures of apprentices;⁵⁶ old age assistance awards;⁵⁷ inheritance tax receipts;⁵⁸ dentists' certificates of registration;⁵⁹ special assessments against lands benefited by ditches and drains;⁶⁰ and official bonds of the sheriff, coroner,⁶¹ county school commissioner,⁶² and tobacco inspector.⁶³

The recorder is required to index the deeds, mortgages, and various other instruments recorded by him.⁶⁴ Information

⁵⁵ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁵⁶ Rev. L. 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

⁵⁷ Acts 1936 (Spec. Sess.), 1941; Burns, 1941 suppl., 52-1207; Baldwin 1941 suppl., 14078-38.

⁵⁸ Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

⁵⁹ Acts 1887, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

⁶⁰ Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

Releases. Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

⁶¹ Rev. L. 1831, ch. 97, sec. 3. Rev. Stat. 1838, ch. 99, sec. 3. Rev. Stat. 1843, ch. 38, secs. 69, 70. 1 Rev. Stat. 1852, ch. 92. 2 Rev. Stat. 1852, ch. 6, sec. 1, p. 10; ch. 7, sec. 1, p. 13.

⁶² Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2, subch. 2, sec. 3. Rev. Stat. 1838, ch. 94, subch. 2, sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

⁶³ Rev. L. 1824, ch. 109, sec. 4. Garrett v. Board of County Comrs., 92 Ind. 518 (1883).

⁶⁴ Deeds. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. Turpen v. Board of County Comrs., 7 Ind. 172 (1855); State ex rel. Board of County Comrs. v. Atkinson, 17 Ind. 26 (1861).

Mortgages. Acts 1825, ch. 44, sec. 1. Acts 1826-27, ch. 52, sec. 1. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5482. Gilchrist v. Gough, 63 Ind. 576 (1878); Reeder v. State ex rel. Harlan, 98 Ind. 114 (1884).

Index to chattel mortgage minute book. Acts 1935; Burns, 1941 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

concerning the documents recorded in his office is reported annually to the State Division of Accounting and Statistics.⁶⁵

The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees over to the treasurer.⁶⁶

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.⁶⁷

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners.⁶⁸ Such method has never been used generally by the recorder of Wells County.

Forms for the following books were prescribed for recorders by the State Board of Accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁶⁹

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1941 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

⁶⁵ Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period Ended June 30, 1940*, pp. 56-58.

⁶⁶ Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308, 49-1310; Baldwin 7566, 7567. Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. Op. Atty. Gen. 1937, p. 317. See footnote 12.

Fee charged where single instrument releases or assigns more than one chattel mortgage. Op. Atty. Gen. 1939, p. 54.

⁶⁷ Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

⁶⁸ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁹ Acts 1909; Burns 60-202; Baldwin 12855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.⁷⁰

FILING OF INSTRUMENTS FOR RECORDING

90. GENERAL ENTRY BOOK, 1845-. 13 vols. (1-13).

Record of documents filed for recording, showing entry number; date and time of filing; date and kind of instrument; names of principals; amount of fee; location and description of property; amount of consideration; and volume and page reference to recording. Also contains: Recorder's fee book and cashbook, 1845-94, entry 120. Arr. chron. by date and time of filing. No index. Hdw. 600 pp. 12 x 13 x 3. 12 vols., 1845-Feb. 1936, recr. rec. room; 1 vol., Mar. 1936-, recr. off.

LAND TRANSFERS

DEEDS, TITLES, AND GRANTS

91. GENERAL INDEX DEEDS, 1837-. 21 vols. (1-4, 4-20).

Index to deed record, entry 92; sheriff's deed record, entry 93; cemetery record, entry 94; quiet title record, entry 95; will record and order of court, entry 96, showing dates of deed and recording, name of grantor and grantee, kind of deed, and volume and page reference to recording. Arr. alph. by names of grantor and grantee. Hdw. 576 pp. 18 x 13 x 3. 12 vols., 1837-1903, recr. rec. room; 9 vols., 1904-, recr. off.

92. DEED RECORD, 1837-. 110 vols. (A-Z, 1-84).

Transcripts of deeds conveying titles to real property, showing dates of deed and recording, names of grantor and grantee, kind of deed, amount of consideration, and location and description of property. Also contains: Official bond record, 1837-52, entry 47; Notarial bond record, 1837-52, entry 50; justice bond record, 1837-52, entry 52; constable bond record, 1837-52, entry 53; sheriff's deed record, 1837-68, entry 93; cemetery bond record, 1837-1924, entry 94; quiet title record, 1837-Aug. 21, 1911, entry 95; will record and order of court, 1837-Nov. 4, 1891, entry 96; plat book, 1837-52, entry 98;

⁷⁰ 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1891 (Spec. Sess.), 1899, 1913; Burns 4-3301 4-3304, 4-3306; Baldwin 1266, 1267, 1270. See the essay entitled "Circuit Court."

mortgage record, 1837-43, entry 100; school fund mortgages, 1837-43, entry 102; chattel mortgage record, 1837-43, entry 106; and miscellaneous record, 1837-54, entry 113. Arr. chron. by date of recording. Indexed alph. by names of grantor and grantee; also separate index, entry 91. Hdw. 1837-June 19, 1908; typed June 24, 1908-. 98 vols., 1837-Feb. 25, 1926, recr. rec. room; 12 vols., Feb. 26, 1926-, recr. off.

93. SHERIFF'S DEED RECORD, 1869-. 3 vols. (1-3). 1837-63 in Deed Record, entry 92.

Transcripts of sheriff's deeds conveying titles to real property sold on court orders to satisfy judgments, showing dates of sale, deed, and recording; names of grantor and grantee; amounts of judgment, damages, and costs; and location and description of property. Arr. chron. by date of recording. Indexed alph. by name of grantee; also separate index, entry 91. Hdw. 1869-Nov. 1908; typed Dec. 1908-. 465 pp. 18 x 13 x 3. Recr. rec. room.

94. CEMETERY RECORD, 1925-. 1 vol. 1837-1924 in Deed Record, entry 92.

Transcripts of deeds conveying titles to cemetery lots, showing dates of deeds and recording, names of grantor and grantee, amount of consideration, and location and description of lot. Arr. chron. by date of recording. Indexed alph. by name of grantee; also separate index, entry 91. Typed. 600 pp. 18 x 13 x 3. Recr. rec. room.

95. QUIET TITLE RECORD, Aug. 22, 1911-. 1 vol. (1). 1837-Aug. 21, 1911 in Deed Record, entry 92.

Transcripts of court decrees in causes quieting titles to real property, showing dates of trial, decree, and recording; names of plaintiff, defendant, attorneys, and witnesses; location and description of property; proceedings; and court decree. Arr. chron. by date of recording. Indexed alph. by name of plaintiff; also separate index, entry 91. Typed. 500 pp. 18 x 13 x 3. Recr. off.

96. WILL RECORD AND ORDER OF COURT, Nov. 5, 1891-. 2 vols. (1, 2). Title varies: Wills and Order of Court, Nov. 5, 1891-Mar. 16, 1922, 1 vol. 1837-Nov. 4, 1891 in Deed Record, entry 92.

Transcripts of wills and orders of court conveying titles to real property in estate causes, showing dates of will, filing for probate, and recording; names of testator, heirs, executor, grantee, and witnesses; location and description of property; and condition of will. Arr. chron. by date of

recording. Indexed alph. by name of testator; also separate index, entry 91. Hdw., Nov. 5, 1891-Apr. 1908; typed May 1908-. Recr. rec. room.

97. TRACT BOOK, 1833-53. 1 vol. (1).

Abstracts of original land sales of Wells County by United States Government, showing date of sale; name of purchaser; township, section, and range numbers; number of acres; and location and description of property. Arr. numer. by t. no. No index. Hdw. 300 pp. 16 x 12 x 2. Recr. rec. room.

PLATS

98. PLAT BOOK, 1853-. 2 vols. (2, 3). 1837-52 in Deed Record, entry 92.

Plat drawings of surveys of cities, towns, additions, subdivisions, and cemeteries, showing dates of survey and recording; names of city, town, addition, subdivision, or cemetery; and location of streets, alleys, lots, and public grounds. Arr. chron. by date of recording. Indexed alph. by names of city, town, addition, subdivision, or cemetery. Hdw. and typed. 265 pp. 22 x 22 x 2. Recr. off.

MORTGAGE TRANSACTIONS

REAL ESTATE

99. GENERAL INDEX MORTGAGES, 1837-. 25 vols. (1, 2, 2-24).

Index to mortgages in deed record, 1837-43, entry 92; mortgage record, entry 100; building and loan mortgages, entry 101; school fund mortgages, entry 102; and chattel mortgage record, entry 106, showing dates of mortgage and recording, names of mortgagor and mortgagee, kind of mortgage, location and description of property, and volume and page reference to recording. Arr. alph. by names of mortgagor and mortgagee. Hdw. 600 pp. 18 x 13 x 3. 17 vols., 1837-1915, recr. rec. room; 8 vols., 1916-, recr. off.

100. MORTGAGE RECORD, 1844-. 68 vols. (A-Z, 1-42). 1837-43 in Deed Record, entry 92.

Transcripts of mortgages executed to secure loans on real property, showing dates of mortgage, maturity, recording, and satisfaction; names of mortgagor and mortgagee; location and description of property; and amount and conditions of mortgage. Also contains: Building and loan mortgages, 1934-, entry 101; school fund mortgages, 1844-54, entry 102;

and chattel mortgage record, 1844-78, entry 106. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee; also separate index, entry 99. Hdw. 1844-June 20, 1908; typed June 24, 1908-. 600 pp. 18 x 13 x 3. 54 vols., 1844-1924, recr. rec. room; 14 vols., 1925-, recr. off.

101. BUILDING AND LOAN MORTGAGES, 1872-1933. 3 vols (1-3). 1934-in Mortgage Record, entry 100.

Transcripts of mortgages executed to secure loans on real property from building and loan associations, showing information as in entry 100. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee; also separate index, entry 99. Hdw. 1872-July 1909; typed Aug. 1909-. 588 pp. 18 x 13 x 3. Recr. rec. room.

102. SCHOOL FUND MORTGAGES, 1855-. 8 vols. (1-8). 1837-43 in Deed Record, entry 92; 1844-54 in Mortgage Record, entry 100.

Transcripts of mortgages executed to secure school fund loans on real property, showing dates of mortgage, recording, maturity, and satisfaction; names of mortgagor and mortgagee; location and description of property; and amount and conditions of mortgage. Arr. chron. by date of recording. Indexed alph. by name of mortgagor; also separate index, entry 99. Hdw. 1855-July 1909; typed Aug. 1909-. 600 pp. 18 x 13 x 3. 7 vols., 1855-Aug. 10, 1923, recr. rec. room; 1 vol., Aug. 11, 1923-, recr. off.

CHATTELS

103. [CHATTEL MORTGAGES AND CONDITIONAL SALES CONTRACTS], June 17, 1936-. 2 f. d.

Original mortgages and contracts, consisting of:

- i. Chattel mortgages, showing information as in entry 104i. Arr. alph. by name of mortgagor.
 - ii. Conditional sales contracts, showing information as in entry 104ii. Arr. alph. by name of vendee.
- No index. Hdw. and typed. 17 x 11 x 27. Recr. off.

104. CHATTEL MORTGAGE MINUTE BOOK, June 17, 1935-. 1 vol. (1).

Abstracts of chattel mortgages and conditional sales contracts, consisting of:

- i. Chattel mortgages, showing dates of mortgage, filing, maturity, and release; names of mortgagor and mortgagee; amount of mortgage; and description of chattels.

- ii. Conditional sales contracts, showing dates of contract and filing, names of vendor and vendee, amount of contract, and description of property.

Arr. chron. by date of filing. Indexed alph. by names of mortgagor and vendee; also separate index, entry 105. Hdw. 520 pp. 18 x 13 x 3. Recr. off.

105. GENERAL INDEX OF CHATTEL MORTGAGES, June 17, 1935-. 1 vol. (1).

Index to chattel mortgage minute book, entry 104, showing dates of mortgage or conditional sales contract and satisfaction, names of mortgagor or vendee and mortgagee or vendor, and volume and page reference to recording. Arr. alph. by names of mortgagor and vendee. Hdw. 650 pp. 18 x 13 x 3. Recr. off.

106. CHATTEL MORTGAGE RECORD, 1879-June 16, 1935, 33 vols. (1-33). 1837-43 in Deed Record, entry 92; 1844-78 in Mortgage Record, entry 100.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity, and recording; names of mortgagor and mortgagee; description of property; and amount and conditions of mortgage. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee; also separate index, entry 99. Hdw. 1879-June 20, 1908; typed June 21, 1908-June 16, 1935. 576 pp. 18 x 13 x 3. Recr. rec. room.

LIENS

107. RECORD OF MECHANIC'S LIENS, 1854-83, 1892-1900. 2 vols. (1, 2). 1901- in Miscellaneous Record, entry 113.

Transcripts of liens filed on property to assure payment of costs for labor and materials, showing dates of lien, recording, and satisfaction; names of lienor and lienee; amount and terms of lien; and location and description of property. Arr. chron. by date of recording. Indexed alph. by names of lienor and lienee. Hdw. 450 pp. 17 x 12 x 2. Recr. rec. room.

108. DITCH LIEN RECORD, 1882-. 3 vols. (1-3).

Record of liens on real property for nonpayment of ditch assessments, showing dates and amounts of assessments, delinquency; lien, and payments; names of property owner and ditch; location and description of property; and date of

recording. Arr. chron. by date of recording. Indexed alph. by names of property owner and ditch. Hdw. 1882-Feb. 1918; typed July 16, 1918-. 400 pp. 18 x 13 x 3. Recr. rec. room.

109. RECORD OF SIRE LIEN, 1891-1925. 1 vol. (1).

Record of liens filed to assure payment of stallion service fees, showing dates of service, lien, recording, and satisfaction; names of owners of sire and dam; and amount and conditions of lien. Arr. chron. by date of recording. Indexed alph. by name of owner of sire. Hdw. 600 pp. 18 x 13 x 3. Recr. rec. room.

110. OLD-AGE ASSISTANCE AWARD CERTIFICATES, June 4, 1936-.

1 f. d.

Copies of certificates of award of old-age assistance establishing liens against property of recipients, showing information as in entry 111. Arr. numer. by certificate no. No index. Typed. 17 x 11 x 27. Recr. off.

For original old-age assistance award certificates, see entries 413, 414; for other copies of old-age award certificates, see entry 353i.

111. ABSTRACT OF OLD-AGE CERTIFICATES FILED, June 4, 1936-.

1 vol. (1).

Abstracts of old-age assistance award certificates establishing liens against property of recipients, showing dates of certificate and recording, name and address of recipient, and application and certificate numbers. Arr. numer. by certificate no. Indexed alph. by name of recipient. Hdw. 588 pp. 18 x 13 x 3. Recr. off.

For original old-age assistance award certificates, see entries 413, 414.

112. INHERITANCE TRANSFER RECORD, 1914-25. 1 vol.

Transcripts of treasurer's receipts issued for payment of inheritance taxes, showing date and amount of receipt; date of recording; and names of estate, heirs, and administrator or executor. Arr. chron. by date of recording. Indexed alph. by name of estate. Typed. 272 pp. 16 x 12 x 1½. Recr. rec. room.

113. MISCELLANEOUS RECORD, 1855-. 34 vols. (1-34). 1837-54 in Deed Record, entry 92.

Transcripts of documents, consisting of:

- i. Affidavits, showing dates of affidavit and recording and name and statement of affiant.
- ii. Agreements, showing dates of agreement and

- recording, names of principals, and conditions of agreement.
- iii. Annexations of territories to towns and cities, showing dates of annexation and recording, name of town or city, and location and description of annexed territory.
 - iv. Bills of sale, showing dates of sale and recording, names of vendor and vendee, description and itemized list of property, and amount of sale.
 - v. Bonds by employees and officers of various business concerns and organizations, showing date, amount, and conditions of bond; date of recording; and names of employee or officer and business concern or organization and sureties.
 - vi. Certificates of election of officers of churches, lodges, and societies, showing dates of election, certificate, and recording; names of church, lodge or society, and officer; and title of officer.
 - vii. Constitutions and bylaws of organizations, showing dates of constitution and bylaws and recording, name and address of organization, and copy of constitution and bylaws.
 - viii. Easements, showing dates of easement and recording, names of principals, and conditions of easement.
 - ix. Indentures of apprenticeship, showing dates of indenture and recording; name, age, and race of apprentice; names and addresses of parents or guardian and master; and conditions of indenture.
 - x. Leases, showing dates of lease and recording, names of lessor and lessee, amount and conditions of lease, and location and description of property.
 - xi. Notices of bankruptcy, showing dates of notice and recording, name and address of bankrupt person or firm, name of person asking for receiver, and reasons for asking.
 - xii. Patent deeds of original land grants by Federal Government, showing dates of grant and recording, name of grantee, and location and description of land.

- xiii. Powers of attorney authorization, showing dates of authorization and recording, names of principal and agent, conditions of authorization, and period of authority.
- xiv. Promissory notes, showing dates of note, recording, and maturity and names of obligor and obligee.
- xv. Occasional recordings of wills, options, notices of change of name, premarital agreements, proof of heirship and releases of mortgages and liens, showing dates of instrument and recording, names of principals, and nature and conditions of instrument.

Also contains: Record of mechanic's liens, 1901-, entry 107; incorporation record, 1855-96, entry 114; record soldiers' discharge, 1855-64, entry 115. Arr. chron. by date of recording. Indexed alph. by name of principals. Hdw. 1855-June 23, 1908; typed June 26, 1908-. 600 pp. 18 x 13 x 4. 31 vols., 1835-July 25, 1929, recr. rec. room; 3 vols., July 26, 1929-, recr. off.

MISCELLANEOUS RECORDS

114. INCORPORATION RECORD, 1897-. 1 vol. (1). 1855-96 in Miscellaneous Record, entry 113.

Transcripts of articles of incorporation and dissolutions of corporations, showing dates of document, filing, and recording; name, type, and address of business; amount of capital stock; and names of directors and officers. Arr. chron. by date of recording. Indexed alph. by name of corporation. Hdw. 1897-Apr. 7, 1908; typed June 29, 1908-. 600 pp. 18 x 13 x 3. Recr. rec. room.

115. RECORD SOLDIERS' DISCHARGE, 1865-1913. 1 vol. (1). 1855-64 in Miscellaneous Record, entry 113.

Transcripts of discharge certificates, recorded when requested, by veterans who served in army or navy, showing information as in entry 116. Arr. chron. by date of recording. Indexed alph. by name of veteran. Hdw. 200 pp. 18 x 13 x 1½. Recr. rec. room.

116. ENLISTMENT AND DISCHARGE RECORD WAR WITH GERMANY, 1919-. 1 vol.

Transcripts of discharges, recorded as requested by world war veterans, showing dates of enlistment, discharge, and

recording; name, age, rank, branch of service, personal description, occupation, place of birth, and service record of veteran; and reason for discharge. Arr. chron. by date of recording. Indexed alph. by name of veteran. Typed. 400 pp. 16 x 12 x 3½. Recr. rec. room.

117. REGISTER OF FARM NAMES, 1913-. 1 vol. (1).

Register of names assigned to farms for purpose of identifying farms and farm products, showing date of registration, names of farm and owner, and location and description of farm. Arr. chron. by date of registration. Indexed alph. by names of farm and owner. Hdw. 200 pp. 9 x 13 x 1½. Recr. rec. room.

118. MARKS AND BRANDS, 1837-80. 2 vols.

Record of notices of marks and brands for identification of livestock, showing date of recording, name and address of owner, and description of mark or brand. Arr. by name of t. and alph. thereunder by name of owner. No index. Hdw. 250 pp. 14 x 9 x 1¼. Recr. rec. room.

119. DEEDS, MORTGAGES, LIENS, Nov. 18, 1845-Nov. 27, 1939. 1 f. d.

Documents left for recording and uncalled for, consisting of:

- i. Deeds, Nov. 18, 1845-Feb. 17, 1936, showing information as in entry 92.
- ii. Mechanic liens, Dec. 24, 1928-Nov. 27, 1939, showing information as in entry 107.
- iii. Mortgage releases, Nov. 7, 1924-1930, showing dates of mortgage, release, and filing; names of mortgagee and mortgagor; affidavit of satisfaction; and volume and page reference to recording.

No obvious arr. No index. Hdw. 10 x 6 x 24. Recr. off.

FEE AND CASH RECORDS

120. RECORDER'S FEE AND CASH BOOK, 1895-. 12 vols. (1, 1; 2 vols. unlabeled; 3-8, 3, 4). 1845-94 in General Entry Book, entry 90.

Record of fees collected for recording of documents, showing date and nature of document, entry number, date and amount of collection, name of payee, and date and amount of payment to treasurer. Arr. chron. by date of collection. No index. Hdw. 300 pp. 18 x 13 x 3. 7 vols., 1895-Oct. 19, 1919, attic strg. room; 5 vols., Oct. 20, 1919-, recr. off.

MAPS

121. WELLS COUNTY, 1938. 1 map.

Land tenure and communication map of Wells County, showing date of map; county and civil township boundary lines; section, range, and Congressional township lines and numbers; plats of lands outside of cities and towns; name of owner; acreage of each tract, names and locations of cities, towns and villages; locations of highways, railroads, streams, and ditches; and plat drawings on margin of map of towns of Bluffton, Ossian, Liberty Center, Zanesville, Keystone, Craigville, Poneto, Uniondale, and Petroleum. Drawn by Charles H. Henley. Blueprint. Scale: 2" to 1 mile. 62 x 50. Recr. off.

122. WELLS COUNTY, 1930. 1 blueprint.

Land tenure and communication map of Wells County, showing date of map; county, civil township, section, range, and Congressional township lines; section, township, and range numbers; plats of lands outside of cities and towns; name of owner; acreage of each tract; names and locations of cities, towns, and villages; and locations of highways, railroads, streams, schools, and churches. Drawn by James T. Redding, Bluffton. Blueprint. Scale: 2" to 1 mile. 60 x 72. Recr. off.

123. BLUFFTON, INDIANA, 1909. 1 map.

Political and communication map of Bluffton, showing date of map; original plat and additions; locations of lots, streets, alleys, public buildings, and railroads; and lot numbers. Drawn by Fred Davenport and Walter Baumgartner. Blueprint. Scale: 1" to 200'. 48 x 48. Recr. off.

V. CIRCUIT COURT

EVOLUTION AND STRUCTURAL ORGANIZATION

The circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Wells County since 1837. Since 1851 the court has been presided over by one judge elected for a 6-year term by the voters of the judicial circuit.¹ Since May 16, 1927

¹ Const. 1851, art. 7, secs. 1, 8, 9. Acts 1851 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929, Burns 4-3220; Baldwin 1258. See footnotes 17 and 19 herein.

Wells County alone has constituted the twenty-eighth judicial circuit.² The official name of the court is "Wells Circuit Court."³

The judge of the circuit court is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ For 3 years next before his candidacy for election the judge must have been duly admitted to practice law in Indiana and also must have practiced or taught law or acted as an officer of the State or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected, the judge cannot hold any office of trust or profit under the State, other than a judicial office;⁷ and, while holding the office of judge of the circuit court, the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.¹¹

A statute provides that the judge of the circuit court shall receive a regular salary in the amount of \$4,200 per year, payable monthly out of the State treasury.¹² The constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.¹³

If the judge be convicted of corruption or other high crime, he may, on information in the name of the State, be removed from office by the Supreme Court.¹⁴ This is the

² Before March 5, 1923, Wells County belonged to judicial circuits composed of more than one county. See footnote 28 herein.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3.

⁶ Acts 1939; Burns, 1941 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁷ Const. 1851, art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Acts 1881 (Spec. Sess.); ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 1660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921, 1941; Burns, 1941 suppl., 4-3203; Baldwin, 1941 suppl., 1225.

¹³ Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

¹⁴ *Ibid.*, art. 7, sec. 12. Acts 1887; Burns 49-819; Baldwin 13152.

only method by which the judge may be removed from office.¹⁵

Any vacancy in the office of judge of the circuit court is filled through appointment by the Governor. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified. The appointee holds office until January 1 next after the election of his successor.¹⁶

With the organization of Wells County in 1837,¹⁷ there was established in the county, as required by the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both Houses of the General Assembly. The associate judges were elected in the county by the voters thereof.¹⁸ All judges were commissioned by the Governor and held office for the term of 7 years.¹⁹ Recess appointments of president judges were made by the Governor when the General Assembly was not in session.²⁰ The president judge alone or any two judges could hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.²¹ Since the adoption

¹⁵ *State v. Derith*, 201 Ind. 1, 164 N. E. 489 (1929); *State ex rel. Youngblood v. Warrick Circuit Court*, 102 Ind. 514, 136 N. E. 254 (1905). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 20, 1939, by W. Davis Hamilton.

¹⁶ Const. 1816, art. 5, sec. 18. Acts 1837-1839, Burns 4370, Baldwin 1258. Acts 1851 (Spec. Sess.); Burns 2971, Baldwin 1081. 1 Rev. Stat. 1852, Burns 49402, 49404, 49408, 49409, Baldwin 11101, 13103, 11106, 13107. *State ex rel. Custer v. Schertemeier*, 197 Ind. 507, 151 N. E. 407 (1926), *State ex rel. Middleton v. Scott Circuit Court*, 214 Ind. 643, 17 N. E. (2d) 464 (1938).

¹⁷ Wells Organization Acts, Acts 1834-35 (General), ch. 25, sec. 9. Acts 1836-37 (General), ch. 6, sec. 1.

¹⁸ Const. 1816, art. 5, secs. 3, 7. Rev. L. 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1847, ch. 38, secs. 1-4.

¹⁹ Const. 1816, art. 5, sec. 4, art. 11, sec. 9.

²⁰ *Ibid.*, art. 4, sec. 9.

²¹ *Ibid.*, art. 5, sec. 3. *Fuller v. State*, 1 Blackford 68 (1829), *Cook v. State*, 7 Blackford 155 (1844), *Miller v. Burgers*, 2 Ind. 337 (1818).

of the Constitution of 1851, the circuit court has been presided over by one judge elected by the voters of the judicial circuit for a 6-year term.²²

The circuit court existing under the Constitution of 1816 had original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction); all civil actions at law; and all equity cases (including suits for divorce).²³ This circuit court had appellate jurisdiction to review decisions of the board doing county business,²⁴ justices of the peace,²⁵ and the probate court.²⁶ Decisions of this circuit court were reviewable by the Supreme Court of Indiana.²⁷

From the organization of the Wells Circuit Court until the present time, Wells County has belonged to the following judicial circuits: May 1, 1837 until January 28, 1839, eighth circuit (Adams, Allen, Cass, DeKalb, Huntington, Jay, Lagrange, Miami, Noble, Steuben, Wabash, Wells, and Whitley; January 28, 1839 until December 14, 1841, eleventh circuit (Adams, Blackford, Delaware, Grant, Jay, Madison, Randolph, and Wells); December 14, 1841 until November 6, 1852, twelfth circuit (Adams, Allen, DeKalb, Huntington, Lagrange, Noble, Steuben, Wells, and Whitley); November 6, 1852 until March 6, 1873, tenth circuit (Adams, Allen, DeKalb, Elkhart, Huntington, Kosciusko, Lagrange, Noble, Steuben, Wabash, Wells, and Whitley); March 6, 1873 until March 3, 1885, twenty-sixth circuit (Adams, Jay, and Wells); March 3, 1885 to date, twenty-eighth circuit (Blackford, Huntington, and Wells).

²² Const. 1851, art. 7, sec. 8. Acts 1831 (Spec. Sess.); Burns 4-201; 1395.

²³ U. S. Stat., 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Rev. L. 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-22. *Prentiss v. Porter*, 1 Blackford 525 (1822); *Mills v. Bradley*, 1 Blackford 541 (1827); *State v. Albertson*, 2 Blackford 251 (1829); *Bequette v. Lasselle*, 5 Blackford 443 (1840); *Sherry v. Winton*, 1 Ind. 96 (1848). See the essay entitled "Probate Court (1837-53)."

²⁴ Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43; ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. *Reddington v. Hamilton*, 8 Blackford 62 (1846); *Taylor v. Lucas*, 8 Blackford 289 (1846); *Malone v. Hardesty*, 1 Ind. 79 (1848).

²⁵ Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1845, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

²⁶ See the essay entitled "Probate Court (1837-53)."

²⁷ Rev. L. 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

Every county that was in the designated circuits at any time during the designated periods is shown above. There were numerous transfers of counties to and from the circuits during those periods. Before March 5, 1923 Wells County belonged to judicial circuits always composed of more than one county. Since March 5, 1923 Wells County alone has constituted the twenty-eighth circuit.²⁸

FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the State laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity;²⁹ divorce and alimony proceedings;³⁰

²⁸ Acts 1836-37 (general), ch. 8, sec. 1; ch. 25, sec. 9. Acts 1838-39 (general), ch. 2, sec. 1. Acts 1840-41 (general), ch. 25, sec. 1. Acts 1841-42 (general), ch. 22, sec. 3. Acts 1851-52, ch. 21, sec. 10. Acts 1853, ch. 23, sec. 2. Acts 1869 (Spec. Sess.), ch. 18, sec. 1. Acts 1873, ch. 29, sec. 27. Acts 1885, ch. 22, sec. 2. Acts 1893, ch. 144, sec. 1. Acts 1923, ch. 66, sec. 1.

²⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. *State ex rel. Robertson v. Lake Circuit Court*, 215 Ind. 18, 17 N. E. (2d) 805 (1939).

Legislature's power to prescribe jurisdiction. *Board of County Comrs. v. Albright*, 168 Ind. 564, 81 N. E. 578 (1907).

Naturalization proceedings. *U. S. Stat.*, 2:153, 155 (law of 1802); 4:69 (law of 1821). *U. S. C.*, title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Proceedings to punish violators of town ordinances. Acts 1905, Burns 48-401; Baldwin 11359.

Power to declare statute unconstitutional, *State v. Clements*, 215 Ind. 666, 22 N. E. (2d) 619 (1939).

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." *State v. Brown*, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

³⁰ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1202, Baldwin 925, Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. *McHic v. McHic*, 106 Ind. App. 152, 16 N. E. (2d) 987 (1938). *Argiroff v. Argiroff*, 215 Ind. 297, 19 N. E. (2d) 560 (1939).

declaratory judgment proceedings;³¹ juvenile matters;³² insanity inquests and commitments;³³ election contests;³⁴ proceedings for removal of county officers;³⁵ quo warranto proceedings;³⁶ proceedings for mandate, prohibition,³⁷ and injunction;³⁸ proceedings to quiet title to real estate;³⁹ partition proceedings;⁴⁰ ex parte proceedings;⁴¹ habeas corpus proceedings;⁴² proceedings to commit persons to hospitals operated by Indiana University;⁴³ eminent domain proceedings;⁴⁴ proceedings to establish drainage districts and

³¹ Acts 1927; Burns 3-1131 to 3-1116; Baldwin 438-453.

³² Acts 1867, ch. 67 (misnumbered 62), secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Act 1872 (Spec. Sess.), ch. 20. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1903, ch. 237, sec. 1. Acts 1913, ch. 325, sec. 1. Acts 1931, ch. 43, sec. 1. Acts 1935, ch. 243, sec. 1. Acts 1937, ch. 298, sec. 1. Acts 1941, ch. 233. *Dumes v. Deckard*, 105 Ind. App. 674, 17 N. E. (2d) 481 (1938).

³³ 2 Rev. Stat. 1852. Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1031 *et seq.* Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

³⁴ Acts 1941; Burns, 1941 suppl., 29-2123; Baldwin, 1941 suppl., 7401-3. Acts 1933, 1935; Burns, 1941 suppl., 29-2701 to 29-2709; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan*, 214 Ind. 279, 15 N. E. (2d) 384 (1938).

³⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State*, 214 Ind. 128, 14 N. E. (2d) 1007 (1938).

³⁶ Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060.

³⁷ Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

³⁸ Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

³⁹ Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 966, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1941 suppl., 3-1417, 3-1418; Baldwin 1935 suppl., 558-1, 558-2. *Grantham Realty Corp. v. Bowers*, 215 Ind. 672, 22 N. E. (2d) 832 (1939).

⁴⁰ 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

⁴¹ Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

⁴² Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.* *Kunkel v. Moneyhon*, 214 Ind. 606, 17 N. E. (2d) 82 (1938). *Cook v. Rodgers*, 215 Ind. 500, 20 N. E. (2d) 648 (1939).

⁴³ Acts 1939; Burns, 1941 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

⁴⁴ Acts 1905, 1935; Burns, 1941 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068. *Southern Indiana Gas & Elec. Co. v. Booneville*, 215 Ind. 552, 20 N. E. (2d) 648 (1939).

assessments;⁴⁵ proceedings for change of names of persons;⁴⁶ adoption proceedings;⁴⁷ birth registration proceedings;⁴⁸ receiverships;⁴⁹ bastardy proceedings;⁵⁰ guardianships;⁵¹ probate of wills;⁵² and administration of estates of decedents,⁵³ minors, and insane persons.⁵⁴ The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁵ In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.⁵⁶

The circuit court has appellate jurisdiction⁵⁷ to review decisions of justices of the peace;⁵⁸ city courts;⁵⁹ board of commissioners;⁶⁰ board of commissioners and county council acting jointly concerning condemnation of schoolhouses;⁶¹ board of review fixing value of property for taxation;⁶²

⁴⁵ Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. Penn v. Ducomb, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁴⁶ 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

⁴⁷ Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 631, 684.

⁴⁸ Acts 1941; Burns, 1941 suppl., 3-2701 to 3-2907; Baldwin, 1941 suppl., 8405-1 to 8405-7.

⁴⁹ Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.* H. A. Circus Operating Corp. v. Silverstein, 215 Ind. 413, 19 N. E. (2d) 1013 (1939).

⁵⁰ 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, 1877, 1935; Burns, 1941 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

⁵¹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 8-101 *et seq.*, 8-201 *et seq.*; Baldwin 3418 *et seq.*, 3459 *et seq.* Acts 1911; Burns 8-301 *et seq.*; Baldwin 3472 *et seq.* Acts 1867; Burns 8-401 to 8-403; Baldwin 3476 to 3478.

⁵² Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

⁵³ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵⁴ See footnotes 33 and 50 herein.

⁵⁵ See footnote 32 herein.

⁵⁶ Acts 1931, 1933; Burns 6-2408, 6-2410, 6-2413, 6-2415; Baldwin 15946, 15948, 15951, 15953. Acts 1931, 1933, 1937; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

⁵⁷ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵⁸ 2 Rev. Stat. 1852, Burns 5-1001; Baldwin 1931.

⁵⁹ Acts 1905; Burns 4-2415, Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12329.

⁶⁰ Acts 1859, 1939, 1941; Burns, 1941 suppl., 26-701; Baldwin, 1941 suppl., 16055. Acts 1879 (Spec. Sess.), 1885; Burns 26-820, Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1923; Burns 27-117, Baldwin 1773. Acts 1905 Burns 36-1501; Baldwin 8858. State ex rel. Sink v. Cass Circuit Court, 214 Ind. 123, 15 N. E. (2d) 624 (1938).

⁶¹ Acts 1931; Burns 28-3005, Baldwin 6147.

⁶² Acts 1927; Burns 64-1020; Baldwin 15686.

taxing authorities determining that property is taxable;⁶³ board of public works or board of park commissioners of any city in the county (or city council performing such functions);⁶⁴ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁶⁵

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish for contempt; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);⁶⁶ and to adopt rules for conducting its business.⁶⁷ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁶⁸

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,⁶⁹ and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."⁷⁰ He is a member of the commission of public records.⁷¹ He appoints one member of the county school fund board,⁷² five members of the county board of public welfare,⁷³ two members of the county board of review,⁷⁴ and four members of the county board of tax adjustment.⁷⁵ He appoints eight members of the county hospital governing board,⁷⁶ three members of the county public library board,⁷⁷ and five trustees of a sanitary district,⁷⁸ when such boards and district exist

⁶³ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

⁶⁴ Acts 1933; Burns 48-4501; Baldwin 11576.

⁶⁵ Hamilton v. Fort Wayne, 73 Ind. 1 (1880).

⁶⁶ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott, 213 Ind. 228, 12 N. E. (2d) 141 (1938).

⁶⁷ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁶⁸ 2 Rev. Stat. 1852, ch. 1, sec. 550, p. 158. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

⁶⁹ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

⁷⁰ 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. State v. Cooper, 90 Ind. 575 (1883).

⁷¹ Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

⁷² Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁷³ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

⁷⁴ Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷⁵ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷⁶ Acts 1903, 1939; Burns, 1941 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

⁷⁷ Acts 1917, 1921, 1927, 1939; Burns, 1941 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁷⁸ Acts 1913, 1919, 1931; Burns 45-4102; Baldwin 11721.

in the county. He may appoint two tobacco inspectors for the county,⁷⁹ special prosecuting attorneys (in case of disqualification or failure to attend court),⁸⁰ special county commissioners (in case of disqualification),⁸¹ probate commissioner,⁸² and attorneys to represent poor persons in the circuit court.⁸³ He approves the official bonds of the prosecuting attorney,⁸⁴ the county director of public welfare,⁸⁵ and collection agencies.⁸⁶ He makes certificates of "qualification and moral character" concerning persons applying to the Governor of Indiana for appointments as notaries public.⁸⁷ He can solemnize marriages,⁸⁸ administer oaths,⁸⁹ take acknowledgments and proofs of deeds and other documents,⁹⁰ waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,⁹¹ issue licenses for carrying pistols,⁹² and certify as to the authenticity of transcripts of the records and proceedings of the court.⁹³

In pursuance of appropriations by the county council,⁹⁴ the judge of the circuit court may make allowances against

⁷⁹ Acts 1857; Burns 67-303, Baldwin 9461.

⁸⁰ Rev. L. 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

⁸¹ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁸² Acts 1891, 1897, 1911; Burns 6-104; Baldwin 3015.

⁸³ Acts 1881 (Spec. Sess.); Burns 2-211, Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 199. Acts 1905; Burns 9-1314; Baldwin 2235. Op. Atty. Gen. 1939, p. 351.

⁸⁴ 2 Rev. Stat. 1852; Burns 49-2502, Baldwin 5478.

⁸⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

⁸⁶ Acts 1917; Burns, 1941 suppl., 10-5001; Baldwin, 1937 suppl., 2468-5.

⁸⁷ 1 Rev. Stat. 1832, Acts 1855; Burns 49-3503; Baldwin 13016.

⁸⁸ Acts 1897, Burns 44-301, Baldwin 5621.

⁸⁹ 2 Rev. Stat. 1852; Burns 4-312, Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

⁹⁰ 1 Rev. Stat. 1852, Acts 1859, Burns 56-123, Baldwin 14674.

⁹¹ Acts 1939; Burns, 1941 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁹² Acts 1925, 1937; Burns, 1941 suppl., 10-4728; Baldwin, 1937 suppl., 2569-5.

⁹³ Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106, Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929, Burns 2-250; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852, Burns 4-07; Baldwin 1400. Acts 1905, Burns 9-2103; Baldwin 2315.

⁹⁴ Acts 1890, Burns 26-515, 26-527; Baldwin 5379, 5391.

the county for expense of administration of justice.⁹⁵ Such allowances include compensation of witnesses,⁹⁶ jurors,⁹⁷ master commissioners,⁹⁸ sheriff,⁹⁹ bailiffs,¹⁰⁰ court reporter,¹⁰¹ court page,¹⁰² and attorneys appointed to represent poor persons.¹⁰³

An act of 1923 provides for four terms of court each year in Wells County, beginning on the second Monday in January, April, and September, and the third Monday in November of each year. Each term continues until the beginning of the next succeeding term, if the business of court so requires, except that the April term cannot continue longer than 10 weeks.¹⁰⁴ Many laws were enacted by the Legislature before 1923 for the purpose of regulating the commencement and duration of terms of court in Wells County.¹⁰⁵

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary

⁹⁵ Acts 1879 (Spec. Sess.); Burns 49-1422, 49-1474; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

⁹⁶ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

⁹⁷ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

⁹⁸ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

⁹⁹ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

¹⁰⁰ Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Op. Atty. Gen. 1939 p. 312.

¹⁰¹ Acts 1921, 1939; Burns 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

¹⁰² Op. Atty. Gen. 1939 p. 312.

¹⁰³ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314, Baldwin 2275. Op. Atty. Gen. 1939 p. 351.

¹⁰⁴ Acts 1923, ch. 66, sec. 1.

¹⁰⁵ Acts 1836-37 (general), ch. 8, sec. 3. Acts 1838-39 (general), ch. 2, sec. 12. Acts 1939-40 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 28, sec. 4. Acts 1844-45 (general), ch. 76, secs. 1, 2. Acts 1844-45 (local), ch. 200, secs. 1, 2. Acts 1846-47 (general), ch. 116, sec. 1. Acts 1851-52, ch. 22, sec. 1, ch. 31, sec. 1. Acts 1853, ch. 28, sec. 1. Acts 1857, ch. 19, sec. 1. Acts 1867, ch. 20, sec. 1. Acts 1869 (Spec. Sess.), ch. 18, sec. 1. Acts 1873, ch. 29, sec. 65. Acts 1885, ch. 22, sec. 5. Acts 1893, ch. 144, sec. 1. Acts 1895, ch. 68, sec. 1. Acts 1905, ch. 30, sec. 1.

judge to serve until the return of the regular judge or until his successor is named.¹⁰⁶

If for nine months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the Secretary of State, the Governor may appoint some practicing attorney within the circuit to serve as judge pro tempore during the continuance of the disability of the regular judge.¹⁰⁷

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and no party objects to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If a party objects to the regular judge making such nominations, the clerk certifies the facts to the Clerk of the Supreme Court, who, acting under the direction of the Supreme Court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.¹⁰⁸

The judge of the fourth judicial district of the Supreme Court of Indiana (Curtis W. Roll) may preside at the trial of any case pending in Wells Circuit Court when the judge of the latter court is "incompetent to preside."¹⁰⁹

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all

¹⁰⁶ 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁰⁷ Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

¹⁰⁸ 2 Rev. Stat. 1852, ch. 4, secs. 3, 4, pp. 5, 6. Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1881 (Spec. Sess.), 1921, 1932 (Spec. Sess.), 1941; Burns, 1941 suppl., 2-1416; Baldwin, 1941 suppl., 209; Acts 1937; Burns, 1941 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5. State ex rel. Daily v. Harrison, 215 Ind. 106, 18 N. E. (2d) 770 (1939); State ex rel. Elston v. Decker, 215 Ind. 457, 20 N. E. (2d) 179 (1939).

¹⁰⁹ Acts 1872 (Spec. Sess.); Burns 4-102; Baldwin 1308. 2 Rev. Stat. 1852, Burns 4-113; Baldwin 1321. *Roster of State and Local Officials of the State of Indiana, 1911*, p. 8. Information obtained from Paul Stump, Clerk of the Supreme Court, on April 26, 1940, by W. Davis Hamilton.

process of the court.¹¹⁰ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.¹¹¹ In the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;¹¹² and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.¹¹³

The prosecuting attorney acts as attorney for the State in criminal cases under State laws and as attorney for the county and State in certain civil cases.¹¹⁴

The probation officer (appointed by the judge for an indefinite term) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹¹⁵ The county director of public welfare performs duties of the probation officer when so directed by the court.¹¹⁶

The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹¹⁷

Two jury commissioners (annually appointed by the judge)

¹¹⁰ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

¹¹¹ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2, Rev. Stat. 1852, ch. 6, sec. 4, p. 11. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 33; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 123. Acts 1899, chs. 83, 112. Acts 1907, ch. 156. Acts 1917, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1927; Burns, 1941 suppl., 4-510; Baldwin, 1945 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938). Op. Atty. Gen. 1939, p. 312.

¹¹² 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5437.

¹¹³ 2 Rev. Stat. 1852; Burns 4-322, 4-32; Baldwin 1411, 1412.

¹¹⁴ 2 Rev. Stat. 1852; Burns 49-5501; Baldwin 5-53. Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1070 (1938). See the essay entitled "Prosecuting Attorney."

¹¹⁵ See the essay entitled "Probation Officer."

¹¹⁶ Acts 1926 (Spec. Sess.); 1941 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹¹⁷ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1907; Burns 4-501 to 4-511; Baldwin 1238 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1500. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

prepare lists of names from which grand juries and petit juries are drawn.¹¹⁸

The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹¹⁹

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.¹²⁰ He is charged by statute with the duty of keeping and preserving the official records of the court.¹²¹

The clerk files pleadings and other court papers and endorses thereon the time of such filing.¹²² He issues summonses,¹²³ notices for service by publication,¹²⁴ notices of birth registration proceedings,¹²⁵ attachment writs,¹²⁶ garnishment writs,¹²⁷ replevin writs,¹²⁸ ejectment writs,¹²⁹

¹¹⁸ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3701, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939, Burns, 1941 suppl., 4-3341; Baldwin, 1939 suppl., 1267. Crickmore v. State, 213 Ind. 586, 12 N. E. (2d) 266 (1938); Johnson v. State, 213 Ind. 659, 14 N. E. (2d) 96 (1938), Foreman v. State, 214 Ind. 79, 14 N. E. (2d) 546 (1938). See the essay entitled "Jury Commissioners."

¹¹⁹ Dunn v. State ex rel. Corydon, 204 Ind. 390, 184 N. E. 535 (1933). Op. Atty. Gen. 1939, p. 312.

¹²⁰ Acts, 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706, Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹²¹ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹²² Rev. L. 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 1, 18-21, 33, 41, ch. 79, secs. 8, 38. Rev. Stat. 1847, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 39. Acts 1905; Burns 9-904; Baldwin 2125

¹²³ Rev. L. 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905, Burns 9-1013; Baldwin 2128.

¹²⁴ Rev. L. 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1941 suppl., 2-807; Baldwin, 1935 suppl., 88.

¹²⁵ Acts 1941, Burns, 1941 suppl., 3-2902; Baldwin, 1941 suppl., 5405-2.

¹²⁶ Rev. L. 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

¹²⁷ Acts 1881 (Spec. Sess.), 1897; Burns 3-522, Baldwin 791

¹²⁸ Acts 1881 (Spec. Sess.) Burns 3-2708, 3-2904, Baldwin 1209, 1201

¹²⁹ Acts 1827, Burns 3-1-02, Baldwin 245.

habeas corpus writs,¹³⁸ warrants,¹³⁹ commitments,¹³² executions,¹³⁸ witness subpoenas,¹³⁴ letters of guardianship,¹³⁵ letters testamentary, and letters of administration.¹³⁶ He takes depositions of witnesses;¹³⁷ approves and files judicial bonds,¹³⁸ including bonds of executors, administrators,¹³⁹ and guardians;¹⁴⁰ administers and files the official oaths of executors, administrators,¹⁴¹ and guardians;¹⁴² and performs the statutory and customary duties of clerk at trials.¹⁴³

The clerk keeps dockets, order books, judgment records, final record books,¹⁴⁴ inheritance tax record,¹⁴⁵ receivership

¹³⁰ Acts 1881 (Spec. Sess.); Burns 3-109; Baldwin 1044.

¹³¹ Acts 1905, 1937; Burns, 1-41 suppl., 9-1001; Baldwin, 1937 suppl., 2154. Acts 1905; Burns 9-1007, 9-2237; Baldwin 2-26, 2347.

¹³² Acts 1905, 1939; Burns, 1941 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2728; Baldwin 2235.

¹³³ Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 5-2, 5-1, 5-2, 4-7, 5-28 to 5-30, 5-35, 5-24. Acts 1905; Burns 9-2226; Baldwin 2332.

¹³⁴ Rev. L. 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

¹³⁵ 2 Rev. Stat. 1852; Burns 8-401; Baldwin 3418. State ex rel. Cecil v. Christian, 13 Ind. App. 308, 41 N. E. 603 (1895).

¹³⁶ Rev. L. 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3070. McCool v. Old National Bank in Evansville, 214 Ind. 679, 17 N. E. (2d) 820 (1938).

¹³⁷ Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

¹³⁸ Rev. L. 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 2-3102, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 508, 7-26, 7-76, 7-88, 5048, 3255, 3277. 2 Rev. Stat. 1852, Burns 7-502, Baldwin 3-96. 2 Rev. Stat. 1852, Acts 1887, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. Op. Atty. Gen. 1979, p. 9.

¹³⁹ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1881 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

¹⁴⁰ 2 Rev. Stat. 1852, Acts 1857, 1861 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1855; Burns 8-201; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴¹ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 6-501; Baldwin, 1939 suppl., 3048.

¹⁴² 2 Rev. Stat. 1852, Acts 1857, 1861 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴³ Rev. L. 1831, ch. 15, sec. 1. 2 Rev. Stat. 1857, Burns 49-2706; Baldwin 1433.

¹⁴⁴ Rev. L. 1834, ch. 73, sec. 5; ch. 74, secs. 15, 3, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 49, secs. 189, 167, 4-7. 2 Rev. Stat. 1857, ch. 1, sec. 178, p. 117. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2720, 2-2311; Baldwin 173, 2-2, 5-4. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-2, 6, Baldwin 100.

¹⁴⁵ Acts 1913, ch. 47, secs. 17-18. Acts 1921, 1907; Burns, 1941 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

records,¹⁴⁶ a "birth certificate record" (an index to judgments in birth registration proceedings),¹⁴⁷ guardianship records,¹⁴⁸ records concerning the administration of decedents' estates,¹⁴⁹ and records of redemptions from judicial sales.¹⁵⁰ He files and records orders, judgments,¹⁵¹ indictments,¹⁵² recognizances,¹⁵³ notices of lis pendens,¹⁵⁴ probated wills,¹⁵⁵ inventories and accounts of trustees,¹⁵⁶ sheriff's certificates of sale of real estate,¹⁵⁷ and warrants issued by the State Department of Treasury for the collection of gross income taxes.¹⁵⁸

The clerk makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatatuck Colony, after the judge has entered an order of commitment thereto;¹⁵⁹ files coroner's inquest papers

¹⁴⁶ Acts 1911; Burns 3-2607; Baldwin 1147.

¹⁴⁷ Acts 1941; Burns, 1941 suppl., 3-2906; Baldwin, 1941 suppl., 8405-6.

¹⁴⁸ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288. Acts 1889; Burns 8-137; Baldwin 3424.

¹⁴⁹ Rev. L. 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288.

¹⁵⁰ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

¹⁵¹ Rev. L. 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁵² 2 Rev. Stat. 1852, ch. 1, sec. 68, p. 369 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v. State, 214 Ind. 323, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

¹⁵³ Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1029, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

¹⁵⁴ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822, Baldwin 103. Acts 1905; Burns 56-605; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank, 104 Ind. App. 472, 8 N. E. (2d) 398 (1937).

¹⁵⁵ Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.), 1883; Burns 6-2705; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411, Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

¹⁵⁶ Acts 1937; Burns, 1941 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

¹⁵⁷ These certificates and assignments thereof are recorded in the lis pendens record. Acts 1881 (Spec. Sess.), Burns 2-2909; Baldwin 622.

¹⁵⁸ These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1941 suppl., 61-761(a); Baldwin, 1937 suppl., 15993(a). Op. Atty. Gen. 1918, p. 303.

¹⁵⁹ Acts 1939; Burns, 1941 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

(including recognizances, written evidence, verdict, and report);¹⁶⁰ receives money deposited in court pending the decisions of the court;¹⁶¹ and receives payments on judgments of record in his office.¹⁶²

The clerk draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;¹⁶³ furnishes certified copies of papers and records on file in his office;¹⁶⁴ and prepares and certifies transcripts of proceedings for change of venue from the county¹⁶⁵ or for appeal to a higher court.¹⁶⁶ He prepares budget estimates for the circuit court;¹⁶⁷ makes reports to the county auditor and Auditor of State concerning the fines imposed by the court and the collections thereof; makes fee reports to the county auditor; and pays fines and fees to the county treasurer.¹⁶⁸

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names

¹⁶⁰ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

¹⁶¹ Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026; Baldwin 1213, 2160.

¹⁶² Acts 1875; Burns 49-2719; Baldwin 1438.

¹⁶³ Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1413.

¹⁶⁴ Acts 1817-18 (general), ch. 13, sec. 18. Acts 1911; Burns, 1941 suppl., 3-2905; Baldwin, 1941 suppl., 8465-5. 2 Rev. Stat. 1852; Burns 7-413, 49-2707; Baldwin 3287, 1434. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5634. *Midland Ry. Co. v. State ex rel. Harrison*, 11 Ind. App. 423, 38 N. E. 57 (1894). *Fidelity Bldg. & Sav. Union v. Byrd*, 154 Ind. 47, 55 N. E. 867 (1899).

¹⁶⁵ Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1405; Baldwin 191. Acts 1905; Burns 9-1305, Baldwin 2226. *Sun Publishing Co. v. Bonifas*, 106 Ind. App. 607, 19 N. E. (2d) 879 (1929).

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Op. Atty. Gen.* 1934, p. 128.

¹⁶⁶ Acts 1903, 1915; Burns 2-3101; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1907, 1923; Burns 2-3112; Baldwin 466.

¹⁶⁷ Acts 1829; Burns 26 516; Baldwin 5380.

¹⁶⁸ Acts 1865, 1903, 1917; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1909; Burns 60-214; Baldwin 13665.

in the order book, and issues a venire to require such persons to appear in court.¹⁶⁹

The clerk files naturalization declarations and certificates under the Federal laws; keeps a record of naturalization proceedings; and makes reports thereof to the United States Immigration and Naturalization Service.¹⁷⁰

Formerly the clerk issued certificates showing discharge of apprentices by the court;¹⁷¹ recorded prison bounds;¹⁷² and made reports to the board of commissioners concerning fines imposed by the circuit court and collections thereof.¹⁷³

The State Board of Accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.¹⁷⁴

CIVIL CAUSES

FILING OF ACTIONS

124. [CIVIL CAUSES], 1841-. 426 f. b. (labeled by inclusive cause nos.).

Original documents filed in civil causes, consisting of complaints, motions, denials, summonses, subpoenas, demurrers, depositions, transcripts, cross-complaints, and court orders, showing date of filing, nature and number of cause, names of plaintiff and defendant, and action taken. Also contains: Insanity inquests, 1928-, entry 131. Arr. numer. by cause no. For index, see entry 125. Hdw. and typed. 12 x 5 x 12. Clk rec. room.

¹⁶⁹ Rev. L. 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939, Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. *Crickmore v. State*, 213 Ind. 585, 12 N. E. (2d) 266 (1938)

Objection to irregularities in the selection, impaneling, or swearing of grand jury should be raised by plea in abatement. *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938)

¹⁷⁰ U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1941 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

¹⁷¹ Rev. L. 1831, ch. 4, sec. 2.

¹⁷² Rev. L. 1831, ch. 75, sec. 1.

¹⁷³ Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 60-63. 1 Rev. Stat. 1852, ch. 92.

¹⁷⁴ Acts 1909; Burns 60-202; Baldwin 13833. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

125. GENERAL INDEX TO CIVIL CASES, 1841-. 3 vols. (1-3). Index to civil causes, entry 124, showing cause number, names of plaintiff and defendant, and file box reference. Arr. alph. by names of plaintiff and defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

126. ENTRY, ISSUE DOCKET & FEE BOOK, May 1912-. 28 vols. (1-28).

Record of filing of actions, issues, and fees and costs assessed in civil causes, showing nature and number of cause; dates of filing and sheriff's return; names of plaintiff, defendant, payer, and payee; amount and nature of fees and cost; date of payment; and disposition of cause. This is a combination of three records formerly kept separately: Entry docket, entry 127; issue docket, entry 128; civil fee book, entry 157. Also contains: Criminal fee book, May 1912-23, entry 163. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

127. ENTRY DOCKET, 1876-1913. 7 vols. (1-7). 1914-in Entry, Issue Docket & Fee Book, entry 126.

Record of filing of actions in civil causes, showing dates of filing, issuing process, and judgment; nature and number of cause; and names of plaintiff, defendant, and attorneys. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 425 pp. 18 x 13 x 2½. Attic strg. room.

128. ISSUE DOCKET, 1845-59, 1877-94. 18 vols. May 1912-in Entry, Issue Docket & Fee Book, entry 126.

Record of issues in civil causes, showing dates of filing, court term, and sheriff's return; names of plaintiff, defendant, and attorneys; nature and number of cause; and proceedings. Arr. chron. by date of court term and numer. thereunder by cause no. No index. Hdw. 350 pp. 18 x 13 x 2½. Attic strg. room.

CORONER'S INQUEST

129. CORONER'S INQUESTS, 1885-. 9 f. b.

Coroner's reports on inquests held to establish cause of violent, accidental, and sudden deaths, showing dates of death, inquest, and verdict; inquest number; name, age, sex, color, address and physical description of deceased; names and testimony of witnesses; cause of death; and coroner's verdict. Arr. numer. by inquest no. For index, see entry 130. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

130. GENERAL INDEX INQUESTS, 1885-. 1 vol.

Index to coroner's inquest, entry 129, showing name of deceased and inquest number. Arr. alph. by name of deceased. Hdw. 200 pp. 16 x 12 x 1. Clk. off.

INSANITY

131. INSANITY INQUESTS, 1851-1927. 6 f. b. (labeled by inclusive cause nos.). 1928-in [Civil Causes], entry 124.

Original documents filed in causes of alleged insanity, consisting of warrants for arrest, record of proceedings to commit, responses to applications for admission to State institutions, commitments, clothing requisitions, receipts of admission, notices of discharge or death, and recommitments, showing date of document and filing, cause number, names of patient, examining physicians, witnesses and institution; list of clothing furnished; and amount of fees and costs. Also contains: Sheriff's bills for persons of unsound mind, 1851-1918, 1923-27, entry 135. Arr. numer. by cause no. For index, see entry 132. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

132. GENERAL INDEX OF INSANITY INQUESTS, 1851-1927. 1 vol.

Index to insanity inquests, entry 131, showing cause number, name of patient, and file box reference. Arr. alph. by name of patient. Hdw. 100 pp. 16 x 12 x 1. Clk. off.

133. INSANE RECORD, 1852-1927. 4 vols. (1 vol. unlabeled; 1-3). 1923-in Order Book Civil, entry 142.

Record of proceedings in causes of alleged insanity, covering:

- i. Inquests and proceedings for commitment, showing dates of application, filing, inquest, commitment, and discharge or death; name, age, sex, and personal history of patient; names of petitioner, examining physicians, institution and witnesses; cause number; and proceedings. Arr. chron. by date of filing.
- ii. Proceedings to recommit, showing dates of physician's statement, previous admission, discharge, and recommitment; name and address of patient; names of physician and institution; cause number; and proceedings. Arr. chron. by date of physicians' statements.

Indexed alph. by name of patient. Hdw. 600 pp. 18 x 13 x 3. 1 vol., 1852-Apr. 1881, attic strg. room; 3 vols., May 1881-, clk. off.

134. CERTIFICATE OF FEES IN ANT CASES, 1898-. 3 vols. (1; 2 vols. unlabeled). Title varies: Allowance For Insanity Inquests, 1898-1913, 1 vol.

Record of clerk's certificates of court allowances in insanity

causes, showing dates of certificate and allowance, names of patient and claimant, and amount of allowance. Arr. chron. by date of certificate. No index. Hdw. 175 pp. 10 x 15 x 1. 2 vols., 1898-1926, attic strg. room. 1 vol., 1927-, clk. off.

135. SHERIFF'S BILLS FOR PERSONS OF UNSOUND MIND, 1919-22, 1935-. 1 f. b. 1851-1918, 1923-27 in Insanity Inquests, entry 131.

Itemized statements of costs and fees in insanity causes, 1919-22, showing cause number, list of clothing furnished, names of patient and vendor, amount of costs and fees, and date of statement. Also contains: Applications for junk dealers' licenses, 1935-, entry 69. Arr. chron. by date of statement. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

RECEIVERSHIPS

136. RECEIVERSHIP RECORD, 1912-. 2 vols. (1, 2).

Record of receivership and assignment causes, showing cause number; dates of filing, sheriff's return, and proceedings; names of receivership, receiver, assignors, assignees, and claimants; inventory and appraised valuation of property; amounts of assets and liabilities; and court orders. Arr. chron. by date of filing. Indexed alph. by names of receivership and receiver. Typed. 600 pp. 18 x 13 x 3. 1 vol., 1912-Jan. 1929, clk. rec. room; 1 vol., Apr. 1929-, clk. off.

137. RECEIVERSHIP, 1925-. 1 vol.

Record of bank receivership causes, showing information as in entry 136. Arr. numer. by cause no. No index. Hdw. 300 pp. Cir. ct. room.

138. STUDEBAKER BANK PROCEEDINGS, 1927-30. 15 f. b. Original documents filed in Studebaker Bank receivership cause, consisting of petition, appointment of receiver and appraisers, inventory, appraisement, claims, allowances, subpoenas, reports, and court orders, showing dates of document and filing; names of bank, receiver and appraisers; amounts of inventory, appraisement, claims, and allowances; and court orders. Arr. chron. by date of filing. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

139. [CAUSES PENDING], 1907-. 2 f. d.

Record of proceedings and actions pending in civil and criminal causes, showing information as in entry 140. Arr. numer. by cause no. No index. Hdw. and typed. 8½ x 14 x 28. Cir. ct. room.

140. [TRANSFER DOCKET], 1858-. 98 vols. Title varies: Bar Docket, 1858-74, 3 vols.; Court Docket, 1875-1912, 74 vols.

Record of proceedings and actions in civil causes, showing cause number; names of plaintiff, defendant, attorneys, and witnesses; dates of filing, court term, and actions; proceedings; and court orders. Also contains: Criminal docket, 1858-92, 1914-, entry 166; probate court docket, 1913-, entry 192. Arr. numer. by cause no. No index. Hdw. and typed. 300 pp. 12 x 13 x 4. 77 vols., 1858-1912, attic strg. room; 21 vols., 1913-, clk. off.

MINUTES

141. DITCH REPORTS, 1891-May 15, 1931. 4 vols. (1-4). Record of proceedings and actions in causes involving construction of ditches, showing cause number; names of petitioners, landowners affected, ditches, remonstrators, and viewers; dates of filing, court term, and action; location and description of ditch and lands affected; amount of assessment; and action taken. Arr. chron. by date of filing. Indexed alph. by name of ditch. Hdw. 1891-Mar. 24, 1923; typed Mar. 25, 1923-. 600 pp. 18 x 13 x 3. 3 vols., 1891-1926, surv. off.; 1 vol., 1927-, clk. rec. room.

ORDERS

142. ORDER BOOK CIVIL, 1837-. 83 vols. (A-Z, 1-4, 1-41, 41, A, 42-52).

Record of verdicts, judgments, and orders of court in civil causes, showing dates of filing, court term, verdict, and court order; cause number; names of plaintiff and defendant; nature of verdict or judgment; and court order. Also contains: Insane record, 1925-, entry 133; declaration of intention, 1844-54, entry 159; petition and record division of naturalization, 1844-1909, entry 160; criminal order book, 1837-1924, entry 167. Arr. chron. by date of court order. Indexed alph. by names of plaintiff and defendant. Hdw. 1837-July 1901; typed Aug. 1901-. 600 pp. 18 x 13 x 3. 80 vols., 1837-June 6, 1936, clk. rec. room; 3 vols., June 8, 1936-, clk. off.

JUDGMENTS

143. JUDGMENT DOCKET, 1840-. 20 vols. (1-20).

Record of judgments rendered in civil and criminal causes, showing dates of filing, judgment, transcript, assignment,

and satisfaction; names of plaintiff, defendant, and judgment debtor; number and nature of cause; amounts of judgment, costs, and fees; and volume and page reference to civil order book, entry 142; and execution docket, entry 147. Arr. chron. by date of judgment. No index, 1840-89; for index, 1890-, see entry 144. Hdw. 300 pp. 16 x 12 x 2½. 13 vols., 1840-1910, attic strg. room; 2 vols., 1911-Feb. 8, 1920, clk. rec. room; 5 vols., Feb. 9, 1920-, clk. off.

144. GENERAL INDEX TO JUDGMENTS, 1890-. 3 vols. (1-3). Index to judgment docket, entry 143, showing cause number, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiff and defendant. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

145. J[ustices] [of] P[ea]ce TRANSCRIPTS, 1854-. 12 f. b. (labeled by inclusive cause nos.).

Certified copies of judgments filed with clerk for execution, consisting of:

- i. Certified copies of judgments rendered in courts of foreign counties against residents of Wells County and filed with clerk for execution, showing dates of filing, judgment, and copy; names of plaintiff, defendant, judgment debtor, plaintiff's attorney, and foreign county; cause number; and amounts of judgment, fees, and costs. Arr. chron. by date of filing.
- ii. Judgments rendered in justices' of peace courts, showing cause number; dates of filing of complaint, trial, judgment, order of execution, and constable's return; names of plaintiff, defendant, judgment debtor, plaintiff's attorney, justice of peace, constable, and township; amounts of judgment, fees and costs; and date of filing transcript. Arr. chron. by date of filing transcript.

For index, see entry 146. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

146. GENERAL INDEX JUSTICE OF PEACE, 1854-. 1 vol. Index to justices' of peace transcripts, entry 145, showing cause number, names of plaintiff and defendant, and file box reference. Arr. alph. by names of plaintiff and defendant. Hdw. 100 pp. 16 x 12 x 1. Clk. off.

EXECUTIONS

147. EXECUTION DOCKET, 1838-. 16 vols. (A, B, 3-16). Record of writs issued for execution on judgments, showing

cause number, names of plaintiff, defendant, and judgment debtor; dates of judgment, writ, and sheriff's return; location and description of property; amounts of judgment, interest, and costs; and sheriff's return. Arr. chron. by date of writ. Indexed alph. by names of plaintiff and defendant. Hdw. 1838-1934; typed 1835-. 11 vols., 1838-Jul. 22, 1907, attic strg. room; 5 vols., July 23, 1917-, clk. off.

148. PRINCIPLE FOR EXECUTION, 1899-1917, 1923-. 6 vols. (2; 1 vol. unlabeled; 4, 5, 3).

Original orders issued by attorneys or plaintiffs to clerk to issue writs of execution, showing dates of order, court term, and judgment; names of plaintiff, defendant, judgment debtor, and attorney; and amount of judgment. Arr. chron. by date of order. No index. Hdw. 200 pp. 8 x 10 x 2. 4 vols., 1899-1917, 1923-Mar. 1930, attic strg. room; 2 vols., Apr. 1930-, clk. off.

149. TAX WARRANTS, 1935-. 1 f. b.

Copies of warrants issued by State Department of Treasury to sheriff to levy on property for satisfaction of delinquent gross income taxes, showing dates of warrant, sheriff's return, and filing; name and address of defendant; warrant number; and amounts of tax, interest, penalty, damages, and remittance. Arr. chron. by date of filing. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

150. LIS PENDENS COMPLAINTS, 1878-. 1 vol.

Record of complaints filed against owners of real estate that may be subject to levy for satisfaction of judgment, showing date of filing; nature and number of cause; names of plaintiff, defendant, plaintiff's attorney, and court; location and description of real estate; and date and nature of satisfaction. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Hdw. 376 pp. 18 x 10 x 2. Clk. off.

151. LIS PENDENS [Notices], 1878-. 1 vol.

Record of notices of levies and attachments on real estate, showing dates of notice and levy or attachment; names of plaintiff, defendant, and court; nature and number of cause; location and description of real estate; and date and nature of satisfaction. Arr. chron. by date of notice. Indexed alph. by names of plaintiff and defendant. Hdw. 374 pp. 18 x 13 x 2. Clk. off.

152. LIS PENDENS [Sheriff's Certificates], 1881-. 4 vols. (1-4).

Record of sheriff's certificate of sale of real property to

satisfy judgments, showing dates of judgment, court order, and sale; names of plaintiff, defendant, and purchaser; cause number; amounts of judgment, interest, costs, and sale; location and description of property; and period and conditions of redemption. Arr. chron. by date of sale. Indexed alph. by names of plaintiff and defendant. Hdw. 300. 18 x 13 x 2. 1 vol., 1881-93, attic strg. room; 3 vols., 1894-, clk. off.

153. LIS PENDENS [Redemptions], 1880-. 3 vols.

Record of certificates of redemption of real property sold to satisfy judgments, showing cause number; dates of judgment, sale, and redemption; names of plaintiff, defendant, purchaser, and redeemer; amounts of judgment, sale, and redemption; and location and description of property. Arr. chron. by date of redemption. Indexed alph. by names of plaintiff and defendant. Hdw. 574 pp. 18 x 13 x 3. Clk. off.

COMPLETE TRANSCRIPTS

154. INDEX COMPLETE RECORD, 1837-1919. 1 vol.

Index to complete civil record, entry 155; complete partition record, entry 156; complete probate record, entry 196, showing names of plaintiff and defendant or estate or guardianship and volume and page reference to recording. Arr. alph. by names of plaintiff and defendant or estate and guardianship. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

155. COMPLETE RECORD CIVIL, 1837-1919. 21 vols. (A, B, 1, 6-8, 11-25).

Complete transcripts of actions and proceedings civil causes, showing dates of filing and action; number and nature of cause; names of plaintiff, defendant, and attorneys; proceedings; and disposition of cause no. Arr. numer. by cause no. Indexed alph. by names of plaintiff and defendant; also separate index, entry 154. Hdw. 1837-1903; typed 1903-19. 600 pp. 18 x 13 x 3. Clk. off.

156. COMPLETE RECORD-PARTITION, 1855-1909. 4 vols. (1-3, 10).

Complete transcripts of actions and proceedings in civil causes involving real estate, showing dates of filing and action; number and nature of cause; names of plaintiff, defendant, attorneys, and appraisers; location, description and appraised valuation of property; proceedings; and disposition of cause. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant; also separate index, entry 154. Hdw. 1855-1902; typed 1903-9. 600 pp. 18 x 13 x 3. Clk. off.

FEE AND CASH RECORDS

157. FEE BOOK CIVIL, 1838-Apr. 1912. 27 vols. (1A, 2-27). May 1912-in Entry, Issue Docket & Fee Book, entry 126.

Record of fees and costs assessed, showing number, nature, and title of cause; names of plaintiff, defendant, payer, and payee; nature and amounts of fees and costs; and date and amount of payment. Also contains: Criminal fee book, 1838-86, entry 163. Arr. numer. by cause no. Indexed alph. by names of plaintiff and defendant; also separate index, 1894-99, entry 158. Hdw. 375 pp. 18 x 13 x 2½. 18 vols., 1838-99, attic strg. room; 9 vols., 1900-, clk. off.

158. INDEX OF COSTS, 1894-99. 1 vol.

Index to fee book civil, entry 157, showing names of plaintiff and defendant, amount of fees, dates of issuing fee bill and sheriff's return, and volume and page reference to recording. Arr. alph. by name of plaintiff. Hdw. 300 pp. 18 x 13 x 3. Attic strg. room.

NATURALIZATION

159. DECLARATION OF INTENTION, 1856-. 3 vols. 1844-54 in Order Book Civil, entry 142.

Record of declaration of intention by aliens to become United States citizens, showing date of declaration; name, address, occupation, sex, race, nationality, date and place of birth, and description of alien; marital status; dates and places of birth and addresses of children; names of native country, sailing vessel, and ports of departure and entry; last foreign address; dates of emigration and arrival; and number of arrival certificate. Arr. chron. by date of declaration. Indexed alph. by name of alien. Hdw. 200 pp. 14 x 10 x 1. Clk. rec room.

160. PETITION AND RECORD DIVISION OF NATURALIZATION, 1910-. 3 vols. 1844-1909 in Order Book Civil, entry 142.

Record of petitions for naturalization, affidavits of witnesses, and oaths of allegiance, showing date and number of petition; name, address, occupation, sex, marital status, and race of petitioner; dates and places of birth and addresses of children; names of native country, sailing vessel, and ports of emigration and entry; last foreign address; dates of emigration and entry; length of time resided in country; oath of allegiance to United States and renunciation of foreign alliance; affidavits, names, and addresses of witnesses; cause

and certificate of arrival numbers; and court order. Arr. chron. by date of petition. Indexed alph. by name of petitioner, 1910-30; no index, 1931-. Hdw. 80 pp. 16 x 11 x 1. Clk. rec. room.

CRIMINAL CAUSES

(See also entries 139, 143).

FILING OF ACTIONS

161. CRIMINAL CASES, 1839-. 50 f. b. (labeled by inclusive cause nos.).

Original documents filed in criminal causes, consisting of affidavits, indictments, warrants, motions, denials, appeals, recognizance bonds, subpoenas, and court orders, showing date of filing; nature and number of cause; names of defendant, attorney, witnesses, and sureties; amount of bond; and action taken. Arr. numer. by cause nos. For index, see entry 162. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

162. GENERAL INDEX CRIMINAL, 1839-. 1 vol.

Index to criminal cases, entry 161, showing cause number, name of defendant, and file box reference. Arr. alph. by name of defendant. Hdw. 200 pp. 16 x 12 x 2½. Clk. off.

163. CRIMINAL FEE BOOK, 1887-Apr. 1912, 1924-. 4 vols. (1-3, 1). Title varies: Entry Docket Criminal Cases, 1887-Apr. 1912, 3 vols. 1838-86 in Fee Book Civil, entry 157; May 1912-23 in Entry, Issue Docket and Fee Book, entry 126.

Record of filing of actions and fees and costs assessed in criminal causes, showing date and nature of indictment or affidavit, date of filing, cause number, name of defendant, itemized statement of fees and costs, and date of payment. Arr. numer. by cause no. Indexed alph. by name of defendant. Hdw. 500 pp. 18 x 13 x 3. 3 vols., 1887-Apr. 1912, attic strg. room; 1 vol., 1924-, clk. off.

INDICTMENTS AND AFFIDAVITS

164. INDICTMENT RECORD, 1854-1921. 7 vols. (1-7).

Record of grand jury indictments, showing dates of indictment, court term, and filing; date and nature of charge; cause number; and names of defendant and grand jury foremen. Arr. chron. by date of indictment. Indexed alph. by name of defendant. Hdw. 1854-1902; hdw. and typed 1903-21. 350 pp. 16 x 12 x 3. Attic strg. room.

165. AFFIDAVIT & INFORMATION RECORD, 1892-1907. 1 vol. Statements of complaining witnesses and record of affidavits, showing dates of statement, affidavit, and filing; date and nature of charge; cause number; and names of defendant and witnesses. Arr. chron. by date of filing. Indexed alph. by name of defendant. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

MINUTES

166. CRIMINAL DOCKET, 1893-1913. 7 vols. (1-7). 1858-92, 1914-in [Transfer Docket], entry 140.

Record of proceedings and actions in criminal causes, showing cause number, dates of filing, court term, and action; names of defendant, attorneys, and witnesses; proceedings; and court orders. Arr. chron. by date of court term and number, thereunder by cause no. No index. Hdw. 320 pp. 18 x 13 x 2. Attic strg. room.

ORDERS

167. ORDER BOOK CRIMINAL, 1925-. 4 vols (1-4). 1837-1924 in Order Book Civil, entry 142.

Record of verdicts, judgments, and orders of court in criminal causes, showing cause number; dates of filing, sheriff's return, verdict, and court order; amount of recognizance bond; names of defendant, attorneys, witnesses, and sureties; and nature of verdict or judgment and court order. Arr. chron. by date of court order. Indexed alph. by name of defendant. Typed. 540 pp. 18 x 13 x 3. 2 vols., 1925-Feb. 1932, clk. rec. room; 2 vols., Mar. 1932-, clk. off.

PROBATE CAUSES

FILING OF ACTIONS

168. ESTATE PAPERS, 1855-. 160 f. b. (labeled by inclusive cause nos.).

Original documents filed in estate causes, consisting of appointments, appraisements, inventories, sale bills, claims, receipts for claims and expenses paid, administrators' and executors' bonds, bonds to sell real estate, reports, and court orders, showing date and number of cause; dates of document and filing; and names of estate, administrator or executor, and sureties. Also contains: Guardianship cases, 1855-66, entry 170; and wills, 1922-, entry 179. Arr. numer. by cause no. For index, see entry 169. Hdw. and typed. 12 x 5 x 12. Clk. off.

169. PERMANENT FILE INDEX TO ESTATES, 1855-. 2 vols. (1, 2).

Index to estate papers, entry 168, showing cause number, names of estate and administrator or executor, and file box reference. Arr. alph. by names of estate and administrator or executor. Hdw. 500 pp. 18 x 13 x 3. Clk. off.

170. GUARDIANSHIP CASES, 1867-. 62 f. b. (labeled by inclusive cause nos.). 1855-66 in Estate Papers, entry 168.

Original documents filed in guardianship causes, consisting of appointments, appraisals, inventories, sale bills, claims, receipts for claims and expenses paid, guardians' bonds, bonds to sell real estate, reports, and court orders, showing dates of document and filing; nature of document; cause number; and names of guardianship, wards, guardian, and sureties. Arr. numer. by cause no. For index, see entry 171. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

171. GENERAL INDEX TO GUARDIANSHIPS, 1867-. 1 vol. (1). Index to guardianship cases, entry 170, showing cause number, names of guardian and wards, and file box reference. Arr. alph. by names of guardian and ward. Hdw. 400 pp. 16 x 12 x 2½. Clk. off.

172. ESTATE, ENTRY, CLAIM AND ALLOWANCE DOCKET AND FEE BOOK, 1913-. 8 vols. (1-8).

Record of filing of actions, claims, allowances, and fee assessed in estate causes, showing cause number; dates of filing, decedents death, and letters of administration; names of decedent, administrator or executor, sureties, and claimants; amounts of administrator's or executor's bond, inventory, claim, and allowance; number and nature of claim; itemized amount of fees; date and amount of payment; and date of administrator's or executor's final report. This is a combination of two records formerly kept separately: General entry claims and allowance docket, entry 173; probate fee book, entry 200. Arr. chron. by date of filing. Indexed alph. by name of decedent. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

173. GENERAL ENTRY CLAIMS AND ALLOWANCE DOCKET, 1885-1912. 4 vols. (1-4). Title varies: General Entry Docket of Estates, 1888-1912, 3 vols. 1913-in Estate, Entry, Claim and Allowance Docket and Fee Book, entry 172.

Record of filing of actions and allowances of claims in estate causes, showing dates of filing, claim, allowance, administrator's or executor's report, and settlement; cause

and claim numbers; names of estate, administrator or executor, appraisers, claimants, and sureties; amounts and nature of claims; amounts of allowance, appraisal, and inventory; and volume and page reference to probate order book, entry 193. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 300 pp. 17 x 13 x 3. Clk. rec. room.

174. GUARDIANSHIP DOCKET AND FEE BOOK, 1913-. 3 vols. (1-3).

Record of filing of actions, fees assessed, and proceedings in guardianship causes, showing cause number; dates of filing, proceedings, and appointment of guardian; names of ward, guardian, and sureties; amount of guardian's bond; nature and amount of fees; date and amount of payment; and proceedings. This is a combination of three records formerly kept separately: Guardian's entry docket, entry 175; guardianship docket, entry 176; guardians fee book, entry 201. Arr. chron. by date of filing. Indexed alph. by name of ward. Hdw. 300 pp. 18 x 13 x 3. Clk. off.

175. GUARDIAN'S ENTRY DOCKET, 1859-1912. 6 vols. (1-4, 6, 7). 1913-in Guardianship Docket and Fee Book, entry 174.

Record of filing of actions in guardianship causes, showing cause number; dates of filing, appointment of guardian, and actions; names of guardianship and guardian; names and ages of wards; and action taken. Arr. chron. by date of filing. Indexed alph. by name of guardian and ward. Hdw. 300 pp. 18 x 13 x 2. Attic strg. room.

176. GUARDIANSHIP DOCKET, 1856-1912. 9 vols. (B; 1 vol. unlabeled; 3-5, 5, 6, 6, 8). 1913-in Guardianship Docket and Fee Book, entry 174.

Record of proceedings in guardianship causes, showing cause number; dates of filing, appointment of guardian, and proceedings; names of guardian, sureties, and wards; amount of guardian's bond; proceedings; and volume and page reference to guardian's order book, entry 194. Arr. chron. by date of filing. Indexed alph. by name of guardian. Hdw. 300 pp. 18 x 13 x 3. Attic strg. room.

177. APPEARANCE DOCKET, 1860-1904. 2 vols. (4, 5).

Record of appearances in estate causes, showing cause number; dates of appearances and filing of claims; names of estate, administrator or executor, sureties, and claimants; and amounts of administrator's or executor's bond, claims, and allowances. Arr. chron. by name of estate. Hdw. 500 pp. 18 x 13 x 3½. Attic strg. room.

178. ALLOWANCE DOCKET, 1881-1931. 3 vols. (2-4).

Record of approval of claims against estates, showing cause number; names of estate, administrator or executor, and claimants; and date and amount of allowance. Arr. chron. by date of allowance. Indexed alph. by name of estate. Hdw. 300 pp. 18 x 13 x 3. Clk. rec. room.

WILLS

179. WILLS, 1856-1921. 4 f. b. (labeled by inclusive cause nos.). 1922-in Estate Papers, entry 168.

Original wills filed for probate, showing information as in entry 181. Arr. by date of filing. No index, 1856-89; for index 1890-1921, see entry 180. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

180. GENERAL INDEX OF WILLS, 1890-1921. 1 vol.

Index to wills, entry 179, showing name of testator and file box reference. Arr. alph. by name of testator. No index. Hdw. 150 pp. 16 x 12 x 1. Clk. off.

181. WILL RECORD, 1838-. 8 vols. (1-8).

Transcripts of wills filed for probate, showing dates of will and filing; names of testator and heirs of beneficiaries, witnesses, and executor; amounts, nature, and conditions of bequests; provisions for disposition of residue of estate; and cause numbers. Arr. chron. by date of filing. Indexed alph. by name of testator. Hdw. 1838-1911; hdw. and typed 1912-34; typed 1935-. 500 pp. 18 x 13 x 2½. Clk. rec. room.

BONDS

182. ADMINISTRATOR'S BONDS, 1847-. 6 vols. (1-5). Title varies: Administrator's Bonds and Letters, 1853-75, 2 vols.; Record of Administrator's Bonds, 1876-84, 2 vols.

Record of administrator's bonds, oaths, and letters, showing dates of filing, bond, oath, and letters; names of estate, administrator, and sureties; and amount and conditions of bond. Also contains: Executor's bond record, 1847-53, entry 183; guardian's bonds, oaths and letters, 1847-55, entry 184. Arr. chron. by date of filing. Indexed alph. by name of administrator. Hdw. 350 pp. 18 x 13 x 2½. 4 vols., 1847-1913, attic strg. room; 2 vols., 1914-, clk. off.

183. EXECUTOR'S BOND RECORD, 1854-. 3 vols. (1-3).

Title varies: Executor's Bonds, Oaths, and Letters, 1854-June 1882, 1 vol.; Executor's Bonds & Oaths, July 1882-1922, 1 vol. 1847-53 in Administrator's Bonds, entry 182.

Record of executor's bonds, oaths, and letters; names of estate, executor and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of executor. Hdw. 425 pp. 16 x 12 x 2. 1 vol., 1854-June 1882, attic strg. room; 2 vols., July 1882-, clk. off.

184. GUARDIAN'S BONDS, OATHS & LETTERS, 1856-. 5 vols. (2 vols. unlabeled; 3-5). 1847-55 in Administrator's Bonds, entry 182.

Record of guardian's bonds, oaths and letters, showing dates of filing, bond, oath, and letters; names of guardianship, guardian, and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of guardian. Hdw. 350 pp. 16 x 12 x 2. 1 vol., 1856-1882, attic strg. room; 4 vols., 1883-, clk. off.

185. ADMINISTRATOR'S BONDS TO SELL REAL ESTATE, 1899-. 1 vol.

Record of bonds posted by administrators to sell real estate, showing dates of bonds, filing, and approval; names of estate, administrator, and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of administrator. Hdw. 200 pp. 18 x 13 x 2. Clk. off.

186. EXECUTOR'S BOND TO SELL REAL ESTATE, 1891-. 1 vol.

Record of bonds posted by executors to sell real estate, showing dates of bond, filing, and approval; names of estate, executor, and sureties; and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of executor. Hdw. 200 pp. 18 x 13 x 2. Clk. off.

187. GUARDIAN'S BOND RECORD TO SELL REAL ESTATE, 1891-. 1 vol.

Record of bonds posted by guardians to sell real estate, showing dates of bond, filing, and approval; names of guardianship, guardian, and sureties, and amount and conditions of bond. Arr. chron. by date of filing. Indexed alph. by name of guardian. Hdw. 200 pp. 18 x 13 x 2. Clk. off.

188. COMMISSIONER'S BONDS TO SELL REAL ESTATE, 1891-. 2 vols. (1, 2).

Record of bonds posted by commissioners appointed to sell real estate in partition suits, showing dates of bond, filing and approval; names of commissioner, plaintiff, defendant, and sureties; and amount and conditions of bond. Arr. chron. by date of approval. Indexed alph. by name of commissioner. Hdw. 200 pp. 18 x 13 x 2. Clk. off.

INVENTORIES AND ALL BILLS

189. INVENTORY RECORD, 1881-. 12 vols. (1-12).

Record of inventories of real and personal property in estate causes, showing dates of inventory and filing; names of estate, administrator, or executor, and appraiser; cause number; and description and valuation of property. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 600 pp. 18 x 13 x 3. 5 vols., 1881-Mar. 31, 1904, attic strg. room; 5 vols., Oct. 8, 1904-Jan. 1931, clk. rec. room; 2 vols., Feb. 1931-, clk. off.

190. SALE BILL RECORD, 1853-. 5 vols. (1-5).

Record of sales of personal property in estate causes, showing date of sale; names of estate and administrator or executor, and purchaser; cause number; itemized statement and description of articles sold; and amount and terms of sale. Arr. chron. by date of sale. Indexed alph. by name of estate. Hdw. 500 pp. 18 x 13 x 3. 3 vols., 1853-1903, attic strg. room; 2 vols., 1904-, clk. rec. room.

MINUTES

191. ESTATES, 1908-. 1 vol.

Record of proceedings and actions in pending estate and guardianship causes, showing information as in entry 192. Arr. numer. by cause no. No index. Hdw. 300 pp. 12 x 15 x 3. Clk. rec. room.

192. PROBATE COURT DOCKET, 1858-1912. 33 vols, 1913-in [Transfer Docket], entry 140.

Record of proceedings and actions in estate causes, showing cause number, dates of court term and action, names of estates and administrator or executor, proceedings, and court orders. Arr. chron. by date of court term and numer. thereunder by cause no. No index. Hdw. 300 pp. 18 x 13 x 2. Attic strg. room.

ORDERS

193. ORDER BOOK PROBATE, 1838-. 36 vols. (A, 1-35).

Record of actions, proceedings, and court orders in estate causes, showing cause number; dates of actions, proceedings, and court orders; names of estate and administrator or executor; proceedings; and court order. Also contains: Guardian's order book, 1838-86, entry 194; inheritance tax orders, Sept. 21, 1915-Dec. 17, 1923, Sept. 9, 1930-, entry 195. Arr. numer by cause no. Indexed alph. by name of estate. Hdw. 1838-Feb. 1909; typed Mar. 1909. 600 pp. 18 x 13 x 3. Clk. rec. room.

194. GUARDIAN'S ORDER BOOK, 1887-. 24 vols. (1-24).
1838-86 in Order Book Probate, entry 193.

Record of actions, proceedings and court orders in guardianship causes, showing cause number; dates of actions, proceedings, and court orders; names of guardianship and guardian; proceedings; and court order. Arr. chron. by date of court order. Indexed alph. by name of guardianship. Hdw. 1887-1908; hdw. and typed 1909-16; typed 1917-. 600 pp. 18 x 13 x 3. Clk. rec. room.

195. INHERITANCE TAX ORDERS, 1913-Sept. 20, 1915, Dec. 18, 1923-Sept. 8, 1930. 2 vols. Title varies: Inheritance and Transfer Tax Record, 1913-Sept. 20, 1915, 1 vol. Sept. 21, 1915-Dec. 17, 1923, Sept. 9, 1930-in Order Book Probate, entry 193.

Record of court orders determining value of estates and amount of tax, showing dates of appraisement, inventory, filing, and death of decedent; names of estate, appraiser, heirs, and administrator or executor; description, location, and valuation of property; amount of deduction for indebtedness; and rate and amount of tax. Arr. chron. by date of filing. No index, 1913-Sept. 20, 1915; indexed alph. by name of estate, Dec. 18, 1923-Sept. 8, 1930. Hdw. 500 pp. 18 x 13 x 3. 1 vol., 1913-Sept. 20, 1915, attic strg. room, 1 vol. Dec. 18, 1923-Sept. 8, 1930, clk. off.

COMPLETE TRANSCRIPTS

196. COMPLETE RECORD PROBATE, 1840-1910. 4 vols (C, 4, 5, 9).

Complete transcripts of actions and proceedings in probate causes, showing dates of filing and action, number and nature of cause, names of estate and administrator or executor or guardianship and guardian, proceedings, and disposition. Arr. chron. by date of action. Indexed alph. by names of estates and administrator or executor or guardianships and guardian. Also separate index, entry 154. Hdw. 1840-1902; typed 1903-10. 600 pp. 18 x 13 x 3. Clk. off.

197. RECORD OF TRUST FUNDS, ADMINISTRATORS, GUARDIANS, EXECUTORS AND TRUSTEES, 1894-1917. 1 vol. (1).

Complete transcripts of partial and final reports filed by administrators, executors and guardians, showing cause number; dates of report, filing, and approval; names of estate and administrator or executor or guardianship and guardian; and itemized statement of receipts and disbursements. This

is a combination of two records formerly kept separately: Administrator's report, entry 198; and guardian's report, entry 199. Arr. alph. by names of administrator, executor, or guardian. No index. Hdw. 500 pp. 16 x 13 x 3. Attic strg. room.

198. ADMINISTRATOR'S REPORT, 1873-81. 2 vols. (1, 2). 1894-1917 in Record of Trust Fund, Administrators, Guardians, Executors and Trustees, entry 197.

Complete transcripts of partial and final reports filed by administrators and executors, showing cause number; dates of court term, report, filing, and approval; names of estate and administrator or executor; and itemized statement of receipts and disbursements. Also contains: Guardian's reports, 1873-77, entry 199. Arr. chron. by date of court term. Indexed alph. by name of estate. Hdw. 530 pp. 16 x 13 x 3. Attic strg. room.

199. GUARDIAN'S REPORTS, 1873-81. 1 vol. (4). 1873-77 in Administrator's report, entry 198; 1894-1917 in Record of Trust Fund, Administrators, Guardians, Executors and Trustees, entry 197.

Complete transcripts of partial and final reports filed by guardians, showing cause number; dates of report, filing, and approval; names of guardianship and guardian; and itemized statement of receipts and disbursements. Arr. chron. by date of filing. Indexed alph. by name of guardian. Hdw. 450 pp. 18 x 13 x 3. Attic strg. room.

FEE AND CASH RECORDS

200. FEE BOOK PROBATE, 1847-52, 1861-71, 1876-1912. 9 vols. (1-4, 4-8). 1913-in Estate, Entry Claim and Allowance Docket and Fee Book, entry 172.

Record of fees assessed in estate causes, showing cause number; nature and amount of fee; date and amount of payment; and names of estate, administrator or executor, and payer. Arr. numer. by cause no. Indexed alph. by name of estate. Hdw. 300 pp. 16 x 12 x 1½. Attic strg. room.

201. FEE BOOK GUARDIANS, 1874-1912. 6 vols. (1 vol. unlabeled, 4-8). 1913-in Guardianship Docket and Fee Book, entry 174.

Record of fees assessed in guardianship causes, showing nature and amount of fee; date and amount of payment; cause number; and names of guardianship, guardian, and payer. Arr. numer. by cause no. Indexed alph. by name of guardian. Hdw. 300 pp. 16 x 12 x 2. Attic strg. room.

JUVENILE CAUSES

202. JUVENILE CASES, 1907-. 7 f. b. (labeled by inclusive cause nos.).

Original documents filed in juvenile causes, consisting of complaints, affidavits, warrants for arrest, petitions, investigator's reports, subpoenas, notices, and court orders, showing cause number; dates of document and filing; nature of charge; names of defendant, parents, complaining witness, and investigator; and disposition of cause. Arr. numer. by cause no. For index, see entry 203. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

203. JUVENILE GENERAL INDEX, 1907-. 1 vol.

Index to juvenile cases, entry 202, showing cause number, name of defendant, and file box reference. Arr. alph. by name of defendant. Hdw. 404 pp. 16 x 12 x 2½. Clk. off.

204. JUVENILE ENTRY DOCKET, 1925-. 1 vol.

Record of filing of actions and fees assessed in juvenile causes, showing cause number, date of filing, nature of charge, name of defendant, itemized statement of fees and costs, and date of payment. Arr. numer. by cause no. Indexed alph. by name of defendant. Hdw. 408 pp. 18 x 13 x 2½. Clk. off.

205. JUVENILE COURT DOCKET, 1907-. 2 vols.

Record of actions and proceedings in juvenile causes, showing cause number; date of filing; nature of charge; names of juvenile, complainant, defendant, and attorney; proceedings; disposition of cause; and volume and page reference to juvenile order book, entry 206. Arr. numer. by cause no. No index. Hdw. 150 pp. 9 x 15 x 1½. Clk. off.

206. JUVENILE ORDER BOOK, 1907-. 3 vols. (1-3).

Record of actions, proceedings, and court orders in juvenile causes, showing cause number; dates of action and court order; names of defendant, parents, and attorney; proceedings; and court order. Arr. chron. by date of court order. Indexed alph. by name of defendant. Typed. 450 pp. 18 x 14 x 2. Clk. off.

MISCELLANEOUS RECORDS

207. LETTERS OF ADMINISTRATION, 1845-50. 1 vol.

Record of letters of administration and guardianship granted, showing dates of appointment and letters, cause number, and names of estate and administrator or executor or guardianship

and guardian. Arr. alph. by name of estate or guardianship. No index. Hdw. 450 pp. 18 x 13 x 2½. Attic strg. room.

208. REGISTER OF GUARDIANS AND WARDS, 1903-5. 1 vol. Record of guardians and wards, showing cause number and names of guardian and wards. Arr. alph. by name of guardian. No index. Hdw. 150 pp. 14 x 9 x 1. Attic strg. room.

209. MISCELLANEOUS BOND RECORD, 1891-. 3 vols. (1-3). Record of bonds posted in circuit court causes, consisting of recognizance, attachment, 'surviving partners', assignees', receivers', replevin, peace, support, drainage commissioners', defendants' delivery, petitioners', and injunction bonds, showing dates of bond, approval, and filing; kind, amount, and conditions of bond; and names of principal and sureties. Arr. chron. by date of filing. Indexed alph. by name of principal. Hdw. 1891-Aug. 23, 1913; typed Aug. 26, 1913-. 500 pp. 18 x 12 x 2½. Clk. off.

210. RECORD OF BONDS FOR COSTS, 1895-. 1 vol. Register of bonds posted by plaintiffs to guarantee court costs if decision is rendered against them, showing date, amount, and condition of bond; nature and number of cause; names of plaintiff and sureties; and value of property owned by sureties. Arr. chron. by date of bond. Indexed alph. by names of sureties. Hdw. 250 pp. 16 x 12 x 2. Clk. off.

211. APPEAL BONDS, 1892-. 1 vol. Record of bonds posted by appellants to guarantee costs in causes appealed, showing date, amount, and condition of bond; nature and number of cause; and names of appellant, sureties, and court of appeal. Arr. chron. by date of bond. Indexed alph. by name of appellant. Hdw. 220 pp. 16 x 12 x 2. Clk. off.

212. CHANGE OF VENUE, 1891-. 6 vols. (1-6). Record of actions, proceedings, and costs in venued causes, showing dates of filing, trial, and disposition; nature and number of cause; names of plaintiff, defendant, and county, itemized statement of fees and costs; and disposition of cause. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Hdw. 40 pp. 16 x 12 x 2½. 4 vols., 1891-Feb. 1910, attic strg. room; 2 vols., May 1925-, clk. off.

213. MISCELLANEOUS, 1834-. 3 f. b. Miscellaneous court documents, consisting of:

- i. Appointments of judges pro tem, July 1936-July 5, 1939, showing date and period of appointment, and name of appointee.

- ii. Appointments of special judges. July 1936-July 5, 1939, showing date of appointment, name of appointee, and title of cause to be heard.
- iii. Authorizations of powers of attorney, 1922-Nov. 1933, showing dates of authorization and filing, names of grantor and grantee, and nature of authorization.
- iv. Copies of appointment by county director of public welfare of persons to staff positions, 1936-, showing dates of appointment and approval; name, address, title, salary, and monthly travel allowance of appointee; and eligible list of names from which appointee was selected.
- v. Copies of certificate of admission to bar, 1936-38, showing date of certificate, names of attorney, members of bar and chief justice, and clerk's certificate.
- vi. Copies of resolutions by county bar association in memory of deceased members, Oct. 5, 1905-Jan. 1936, showing date of resolution, names of deceased member and members of committee on resolutions, and resolutions.
- vii. Declaration of testators as to the soundness of their mind at time of making will, 1899-1924, showing dates of declaration and will, and name, address, and declaration of testator.

Also contains: Grand jury reports, 1935, entry 6; ditch petition, 1884-May 14, 1919, entry 26; remonstrances, 1884-1913, entry 27; applications to sell liquor, 1908-13, entry 32; appointment of sheriff, April 19, 1935, entry 34; appointments of members, Apr. 1902-June 1938, entry 87; jury drawings, Sept. 1935-Oct. 1939, entry 227. No obvious arr. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

214. SUBPOENAS, 1904-6, 1914-23, 1932-. 8 vols.

Stubs of subpoenas issued for witnesses' appearance in civil and criminal causes, showing dates of issue, service, and appearance; names of plaintiff, defendant, and attorneys; name and address of witness; and nature and number of cause. Arr. chron. by date of issuance. No index. Hdw. 200 pp. 8 x 12 x 1/2. 7 vols., 1904-6, 1914-23, 1932-37, attic strg room; 1 vol., 1938-, clk. off.

215. [PERMITS], 1928-. In Dealers' Licenses To Sell Firearms, entry 62.

Copies of permits issued by judge of circuit court to carry concealed revolvers, showing date of permit; name, address,

place of birth, occupation, and description of person receiving permit; reason for permit; and factory number and description of revolver.

216. VENIRES, 1897-1936. 1 f. b. 1937—in Sheriff's and Clerk's Certificates For Services of Jurors, entry 217.

Writs served by sheriff on persons who serve as jurors, showing dates of court term and sheriff's return and name and address of person served. Arr. chron. by date of court term. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

217. SHERIFF'S AND CLERK'S CERTIFICATES FOR SERVICES OF JURORS. 1919-, 1 f. b.

Clerk's certificates of court allowance, for jury service, showing date and amount of allowance, date of court term, itemized statement of service and mileage, and name of juror. Also contains: Venires, 1937-, entry 216. Arr. chron. by date of court term. No index. Hdw. 12 x 5 x 12. Clk. off.

218. JURY REGISTER, 1895-. 2 vols.

Register of names of jurors impaneled, showing dates of court term, impaneling, and discharge; name of juror; itemized statement of service and mileage; and amount of fees. Arr. chron. by date of court term. No index. Hdw. 200 pp. 18 x 18 x 1½. 1 vol., 1895-May 1921, attic strg. room; 1 vol., Sept. 1921-, cir. ct. room.

VI. COURT OF COMMON PLEAS (1853-73)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1873 Wells County had a court officially known as "The Court of Common Pleas of Wells County," presided over by one judge. The judge was elected for a 4-year term by the voters of the judicial district and was commissioned by the Governor.¹ The district was composed of the counties of Huntington and Wells from 1853 until August 6, 1859, and the counties of Allen, Adams, Huntington, and Wells after August 6, 1859.² The law provided that any vacancy in the office of judge was to be filled through appointment by the Governor.³

¹ 1 Rev. Stat. 1852, ch. 19, sec. 1. 2 Rev. Stat. 1852, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins, 4 Ind. 305 (1853). See footnote 15 herein.

² 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1.

³ 1 Rev. Stat. 1852, ch. 115, sec. 2. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 2, p. 16.

FUNCTIONS AND RECORDS

The court of common pleas had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had original jurisdiction (concurrent with the circuit court) of dower proceedings; partition proceedings; ne exeat proceedings; habeas corpus proceedings; the appointment of commissioners to execute deeds on title bonds given by deceased obligors; naturalization proceedings under the Federal laws after March 5, 1859; juvenile matters after March 8, 1867; and, except as hereinafter stated otherwise, all equity suits (including divorce and injunction), all civil actions at law, and all criminal cases. The court had no jurisdiction of civil actions at law for damages resulting from slander, libel, or breach of contract to marry; civil cases in which title to real estate was in issue; civil cases on bonds of State and county officers; criminal offenses punishable by death; and offenses punishable only by fine not exceeding \$3. Before March 5, 1859 the court had no jurisdiction of civil cases to recover less than \$50 or more than \$1,000, except that a consent judgment could be rendered for more than \$1,000. The court had jurisdiction of felonies only in the following instances: (a) When the defendant was in custody on a felony charge before indictment by the grand jury; (b) when the person accused of a felony voluntarily submitted himself to the jurisdiction of the court while on bail and before an indictment was returned by a grand jury in any other court; (c) when the accused person obtained a change of venue from the circuit court to the court of common pleas; and (d) when, after March 5, 1859, the Supreme Court had reversed a conviction by the circuit court, the defendant was in custody, and the circuit court was not in session.⁴ No appellate

⁴ Rev. Stat. 1859, ch. 1, sec. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Noter hearing proceedings, U. S. Stat. 210, 18 (Law of 1800), 40 (Law of 1820).

District: *Herrington v. Herrington*, 1 Ind. 178 (1841); *Franklin v. Franklin*, 2 Ind. 40 (1845).

Criminal cases: *Shawyer v. State*, 3 Ind. 31 (1844); *Johnson v. State*, 14 Ind. 274 (1860);

McCarty v. State, 16 Ind. 22 (1861).

jurisdiction was vested in the court of common pleas.⁵

The court of common pleas was a court of record. Its judgments had the same force and effect as those of the circuit court, and were enforced in the same manner.⁶ The court of common pleas could compel the attendance and testimony of witnesses; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁷ The judge could solemnize marriages; take acknowledgments of deeds; take and certify depositions in any case not pending in his own court; and act as accounting officer or master in chancery in any cause referred to him by the circuit court.⁸ He served as judge of the court of conciliation from 1853 until 1865.⁹

Any case in which the judge was disqualified could be transferred to the circuit court for disposition.¹⁰ Decisions of the court of common pleas were reviewable by the circuit court or Supreme Court.¹¹

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the court of common pleas, and performed for the court of common pleas duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the court of common pleas.¹² The district attorney prosecuted criminal cases in the court of common pleas.¹³

The court held four regular terms a year before August 6, 1859 and three regular terms a year thereafter. Adjourned terms could be held after March 3, 1855. Each regular term could last 1 week before March 3, 1855; 2 weeks and 1 week for alternating terms from March 3, 1855 until October 1, 1860; and 2 weeks after October 1, 1860.¹⁴

⁵ Board of County Comrs. v. Weasner, 10 Ind. 259 (1858); Board of County Comrs. v. Brown, 10 Ind. 545 (1858).

⁶ 2 Rev. Stat. 1852, ch. 8, sec. 24, p. 20.

⁷ *Ibid.*, sec. 28, p. 21.

⁸ *Ibid.*, sec. 35, p. 22.

⁹ See the essay entitled "Court of Conciliation (1853-65)."

¹⁰ 2 Rev. Stat. 1852, ch. 8, sec. 10, p. 18.

¹¹ *Ibid.*, secs. 13, 20, 22, pp. 18, 19; ch. 1, sec. 570, p. 158; ch. 10, secs. 189-193, p. 291, ch. 11, secs. 43-46, p. 319. Acts 1853, ch. 5, secs. 1, 2; ch. 34, sec. 2. Acts 1857, ch. 21, sec. 1.

¹² 2 Rev. Stat. 1857, pt. 1, ch. 8, sec. 25, p. 20.

¹³ See the essay entitled "District Attorney (1853-73)."

¹⁴ Acts 1853, ch. 33, sec. 1. Acts 1855, ch. 27, secs. 91, 94. Acts 1859, ch. 47, sec. 20; ch. 51, sec. 3. Acts 1861 (Spec. Sess.), ch. 21, sec. 1. Acts 1863, ch. 12, sec. 1; ch. 30, sec. 1. Acts 1869, ch. 21, sec. 1.

The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.¹⁵

219. COURT DOCKET, 1853-73. 5 vols. (1-4; 1 vol. unlabeled).

Record of actions and proceedings in civil causes of common pleas court, showing cause number, dates of court term, filing, proceedings, and sheriff's return; names of plaintiff, defendant, and attorneys; and nature of action. Arr. chron. by date of court term. No index. Hdw. 400 pp. 16 x 11 x 2. Attic strg. room.

220. ISSUE DOCKET, 1853-73. 2 vols. (1-2).

Record of issues of civil causes in common pleas court, showing nature and number of cause, dates of court, filing, and sheriff's return; names of plaintiff, defendant, and witnesses; and proceedings. Arr. chron. by date of court term. No index. Hdw. 400 pp. 18 x 13 x 2½. Attic strg. room.

221. JUDGMENT DOCKET, 1852-71. 2 vols. (1-2).

Record of judgments rendered in causes of common pleas court, showing dates of judgment and writ of execution, names of plaintiff, defendant, and judgment debtor; number and nature of cause; amounts of judgment, costs, and fees; and volume and page reference to Execution Docket, entry 222. Arr. chron. by date of judgments. Indexed alph. by names of plaintiff and defendant. Hdw. 300 pp. 18 x 13 x 2. Attic strg. room.

222. EXECUTION DOCKET, 1853-75. 1 vol. (1)

Record of writs issued for executions on judgments rendered in causes of common pleas court, showing cause number; dates of judgment, writ, and sheriff's return; names of plaintiff, defendant, and judgment debtor; location and description of property; and amounts of judgment, interest, and costs. Arr. chron. by date of writ. Indexed alph. by name of plaintiff. Hdw. 350 pp. 18 x 13 x 2¼. Attic strg. room.

223. FEE BOOK, 1869-75. 1 vol. (2).

Record of fees and costs assessed in civil causes of common pleas court, showing cause number, nature and amounts of fees and costs, date and amount of payment, and names of plaintiff, defendant, payer and payee. Arr. numer. by cause no. Indexed alph. by name of plaintiff. Hdw. 230 pp. 18 x 13 x 1¼. Attic strg. room.

¹⁵ Acts 1873, ch. 29, secs. 79-88.

224. APPEARANCE DOCKET, 1853-73. 2 vols. (1, 2).

Record of filing of actions and allowance of claims in estate causes of common pleas court, showing dates of filing administrator's or executor's bond, letters of administration, claim, and allowance; names of estate, administrator or executor, sureties, claimants, and attorneys; and amounts of claims and allowances. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 540 pp. 18 x 13 x 2½. Attic strg. room.

225. GUARDIAN'S DOCKET, 1861-69. 1 vol.

Record of filing of actions in guardianship causes of common pleas court, showing dates of filing, guardian's bond, letters of guardianship, reports, claims and allowances; names of guardian-hip, guardian, and claimants; and amounts of claims and allowances. Arr. chron. by date of filing. Indexed alph. by name of guardian. Hdw. 238 pp. 18 x 12 x 1½. Attic strg. room.

226. INVENTORY RECORD, 1853-73. 3 vols. (1-3).

Record of inventories of real and personal property in estate causes of common pleas court, showing dates of inventory and filing; names of estate, administrator or executor, and appraiser; and description and valuation of property. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 400 pp. 18 x 13 x 2. Attic strg. room.

VII. PROBATE COURT (1837-53)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1837 until 1853 Wells County had a court officially known as "The Probate Court of Wells County," presided over by one judge who was elected for a 7-year term by the voters of the county and commissioned by the Governor of Indiana. Before any person could be commissioned as a judge of the probate court, he was required to obtain from a judge of the Supreme Court or from a president judge of a circuit court a certificate showing he was qualified to discharge the duties of such office.¹

¹ Acts 1823-29, ch. 26, secs. 1, 2. Rev. L. 1831, ch. 25, secs. 1, 2, 4. Rev. Stat. 1838, ch. 24, secs. 1, 2, 4. Rev. Stat. 1843, ch. 4, secs. 1, 2, 9, 72, ch. 5, sec. 1; ch. 39, secs. 1-3. See footnote 11 herein.

Wells Organization Acts. Acts 1844-45 (general), ch. 27, sec. 2. Acts 1846-37 (general), ch. 6, sec. 1.

FUNCTIONS AND RECORDS

The probate court had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had original jurisdiction (concurrent with the circuit court) of partition proceedings; dower proceedings; proceedings for the appointment of commissioners to execute deeds on title bonds given by deceased obligors; proceedings for the authorization of the sale of guardianship property; and civil cases at law and in equity upon all demands or causes of action in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their surties and representatives.² No appellate jurisdiction was vested in the probate court.³

The court could compel the attendance and testimony of witnesses; enforce its judgments and orders; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁴ The judge could solemnize marriages before 1838 and after 1843.⁵

² Acts 1828-29, ch. 26, secs. 2, 5, 6, 53-55. Rev. L. 1831, ch. 25, secs. 4, 19, 22, 31, 37, 39, 47, 57. Acts 1832-33, ch. 79, secs. 9, 10. Acts 1833-34, ch. 38, secs. 1, 2. Rev. Stat. 1838, ch. 24, secs. 4, 5; ch. 77, sec. 10. Rev. Stat. 1843, ch. 39, secs. 5, 6.

No general jurisdiction in chancery except in relation to the administration of guardianship and decedents' estates. *West v. Thornburg*, 6 Blackf. 511 (1843); *Powell v. North*, 3 Ind. 392 (1852).

Sale of guardianship property. *Gracter v. Wise*, 5 Blackf. 406 (1840); *Coen v. Cook*, 6 Ind. 263 (1855).

Suit against heirs of deceased vendee for specific performance of contract for sale of real estate. *Boyle v. Moss*, 4 Blackf. 535 (1838).

Suit to enforce vendor's lien on real estate. *West v. Thornburg*, 6 Blackf. 512 (1843).

Partition proceedings. *Taylor v. Connor*, 7 Ind. 115 (1855).

Amount in controversy in suits in favor of or against heirs, executors, etc. *Brown v. McQueen*, 6 Blackf. 278 (1842); *Hugh v. Taylor*, 6 Blackf. 555 (1847).

Limitation on right to trial by jury. Rev. Stat. 1838, ch. 24, sec. 34.

³ *Board of County Commrs. v. Weasner*, 10 Ind. 189 (1856).

⁴ Acts 1828-29, ch. 26, secs. 2, 6, 7. Rev. L. 1831, ch. 25, secs. 4, 5, 49. Rev. Stat. 1838, ch. 24, secs. 5, 11. Rev. Stat. 1843, ch. 39, secs. 11, 13, 30.

⁵ Acts 1828-29, ch. 26, sec. 62. Rev. L. 1831, ch. 63, sec. 2. Rev. Stat. 1838, ch. 68, sec. 2. Rev. Stat. 1843, ch. 35, sec. 6.

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the probate court, and performed for the probate court duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the probate court.⁶

Terms of court began on the second Monday of February, May, August, and November each year. Each term could last 6 days if the business of the court so required.⁷

Any matter within the jurisdiction of the probate court could be heard and disposed of by the circuit court in the same manner as the probate court, when the judge of the latter court was disqualified from acting.⁸ After June 15, 1852 the judge of the circuit court could hold regular terms of the probate court when the judge of the probate court failed to do so.⁹ Decisions of the probate court were reviewable by the circuit court or the Supreme Court.¹⁰

The probate court was abolished in 1853, and its jurisdiction and business were transferred to the court of common pleas, which had broader jurisdiction than the probate court.¹¹

VIII. COURT OF CONCILIATION (1853-65)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1853 until 1865 Wells County had a court officially known as the "Wells Court of Conciliation." The

⁶ Acts 1828-29, ch. 26, secs. 3, 15; ch. 29, sec. 6. Rev. L. 1831, ch. 25, secs. 7-10, 15, 16, 18, 19, 22, 23, 32, 48. Rev. Stat. 1838, ch. 24, secs. 7, 9, 10, 15, 18, 19, 23, 24, 29, 34, 38, 46, 55. Rev. Stat. 1843, ch. 39, secs. 23, 42-45.

⁷ Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40.

⁸ Acts 1829-30, ch. 29, sec. 7. Rev. L. 1831, ch. 25, sec. 6. Rev. Stat. 1838, ch. 24, sec. 6. Rev. Stat. 1843, ch. 39, sec. 9.

⁹ Acts 1851-52, ch. 34, secs. 1, 3.

¹⁰ Acts 1828-29, ch. 26, sec. 4. Rev. L. 1831, ch. 24, sec. 7; ch. 25, sec. 52. Acts 1832-33, ch. 79, secs. 9, 10. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

¹¹ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, ch. 8, sec. 43, p. 23. Acts 1853, ch. 30, sec. 1. Jones v. Cavins, 4 Ind. 305 (1853). See the essay entitled "Court of Common Pleas (1853-73)."

judge of the court of common pleas was ex officio judge of the court of conciliation.¹

FUNCTIONS AND RECORDS

The court of conciliation, which was a court of record,² had jurisdiction of civil claims and controversies submitted to it for the purpose of effecting a compromise or for determination, where the parties agreed to abide the judgment of the court. The law did not authorize an appeal to another court.³

When a reconciliation was effected, the judge entered in a book of record a memorandum thereof, signed by the respective parties, stating the nature of the controversy, or alleged cause of action, the appearance of both parties, and the facts of the reconciliation. The terms of the reconciliation were not stated unless the parties agreed to specify them. The reconciliation thus effected was the final determination of the matter in controversy.⁴ When the parties agreed to a judgment in favor of one against the other in settlement of their differences, the judgment was entered at the foot of the entry of reconciliation. A transcript of such judgment certified by the judge was filed in the office of the clerk of the court of common pleas, and had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁵

When any cause of action was claimed by or against any person for which a civil action might be brought, or when a controversy existed between two or more persons arising out of such alleged cause of action, the parties could appear before the court of conciliation, at any place within the county in which either party resided, for the purpose of effecting a compromise or of having a determination of all or any of such claims or controversies;⁶ and, upon the appearance of the parties, it was the duty of the court to require them respectively to state the nature of the controversy

¹ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 2, p. 224. Acts 1865 (Spec. Sess.), ch. 57. See the essay entitled "Court of Common Pleas (1853-73)."

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853)

² Beach v. Woolford, 7 Ind. 351 (1855).

³ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, ch. 2, sec. 1, p. 224.

⁴ 2 Rev. Stat. 1852, ch. 2, secs. 6, 13, pp. 225, 226.

⁵ *Ibid.*, secs. 7, 13.

⁶ *Ibid.*, sec. 11, p. 226.

between them, and present such claims as alleged. The statement could be made orally or in writing.⁷

When the parties, without a reconciliation, voluntarily submitted their matters of difference to the court for determination and agreed to abide the judgment, such submission was entered in a book of record and signed by the respective parties. On the hearing the court could take the statements of the parties, with or without oath. These controversies were determined according to conscience and right without regard to technical rules. The judgment had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁸

The admissions and declarations (other than the entry of conciliation or judgment) made by the parties in proceedings before the court of conciliation were not binding in any other judicial proceedings.⁹

On claims for libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could give written notice to the opposite party informing him of the claim and requiring him to appear at a specified place and time, in relation thereto, within 5 days, before the court of conciliation.¹⁰ The notice could be served by the sheriff or any other person, in the same manner as a summons in a civil action.¹¹ At the time specified in the notice, or at a later date set by the court, the parties were received by the judge, apart from all other persons, except that infants were attended by a guardian, and a female was attended by her husband or friend. The judge heard the allegations of the parties; informed them of their rights; endeavored to reconcile their differences; and advised such a compromise of the claim or controversy as he deemed just.¹² If, after the service of such notice, either party failed to appear, or if the parties appeared and did not become reconciled or did not submit the matter for determination, the judge made an entry in a book of record, stating the nature of the charge, the notice given, the proof of such service, and the failure of either party to appear or the

⁷ *Ibid.*, sec. 12.

⁸ *Ibid.*, secs. 14, 18.

⁹ *Ibid.*, sec. 20, p. 227.

¹⁰ *Ibid.*, sec. 3, p. 224.

¹¹ *Ibid.*, sec. 4.

¹² *Ibid.*, sec. 5.

appearance of the parties and their failure to become reconciled.¹³ The entries in such book of record, or certified copies thereof, signed by the judge, were evidence of the facts therein stated; and it was the duty of the judge to give a transcript of the entries in any case, certified by him, from his record, to either party on request.¹⁴ In any cause of action thereafter brought for recovery of damages for a cause of action mentioned above, except when the defendant was arrested, the plaintiff could not recover costs unless he produced such certified copy at the trial, and unless it thereby appeared that the notice was duly served, and that he appeared pursuant thereto, or that both parties appeared without notice. The defendant could not recover costs in such action when it appeared that he failed to appear pursuant to such notice.¹⁵

The court of conciliation was abolished in 1865, and no such tribunal has existed since then.¹⁶

IX. JURY COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

Under the requirements of an act of 1881, Wells County has two jury commissioners appointed annually by the judge of the circuit court. The commissioners must be electors of the county; must be of good moral character; must be of opposite politics; and must not be a party to or be interested in any cause pending in the county which may be tried by jury.¹ One commissioner must be a resident of the town or city in which the court is held.²

Each commissioner must take an oath that he will honestly, and without favor or prejudice, perform the duties of jury commissioner during his term of office; that, in selecting persons to be drawn as jurors, he will select none but persons whom he believes to be of good repute for intelligence and honesty; that he will select none whom he has been or may be requested to select; and that in all of his

¹³ *Ibid.*, sec. 8, p. 225.

¹⁴ *Ibid.*, sec. 9.

¹⁵ *Ibid.*, sec. 10. *Nelson v. Turner*, 7 Ind. 36 (1855)

¹⁶ Acts 1865 (Spec. Sess.), ch. 57.

¹ Acts 1881 (Spec. Sess.), 1899; Burns 4-3301, 4-3302, Baldwin 1266, 1274.

² Acts 1899, Burns 4-3301, Baldwin 1266. *Dale v. State*, 200 Ind. 408, 164 N. E. 260 (1928)

selections he will endeavor to promote only the impartial administration of justice.³

When a vacancy exists in the office, or when any commissioner fails to act when required, the judge of the circuit court must appoint some person to fill such vacancy or to act for the time being; and the appointee must possess the qualifications and take the same oath as was required of his predecessor. As compensation for his services, each commissioner receives a per diem fixed by the judge of the circuit court.⁴

FUNCTIONS AND RECORDS

Immediately after qualifying, the commissioners select the names of twice as many persons as will be required by law for service as grand and petit jurors in the courts of the county, for all the terms of courts within the calendar year next ensuing. These names are of legal voters and citizens of the United States; are taken from the current tax duplicates and schedules; are written on separate slips of paper; and are deposited in a jury box furnished by the clerk of the circuit court.⁵ After the names selected are deposited therein, the box is locked and turned over to the clerk of the circuit court. The key to the box is retained by the commissioner who is not an adherent of the same political party as is the clerk.⁶

At 10 A. M. on the Monday immediately preceding the commencement of any term of court, or at any time following said hour which may be practicable for such drawing, the clerk shakes the box, opens it in his office in the presence of the jury commissioners, and publicly draws therefrom such number of names of competent persons as the judge of such court shall order to be summoned as prospective jurors of such court.⁷

From 1852 until 1881 the board of commissioners selected the names from which grand jurors were drawn;⁸ and the treasurer, auditor, and recorder selected the names from which petit jurors were drawn.⁹ Prior to 1852 the board of

³ Acts 1881 (Spec. Sess.), 1899; Burns 4-3001; Baldwin 1266.

⁴ 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3303; Baldwin, 1939 suppl., 1275.

⁵ Acts 1881 (Spec. Sess.), 1939; Burns, 1941 suppl., 4-3304; Baldwin, 1939 suppl., 1267.

⁶ *Ibid.*

⁷ Acts 1937; Burns, 1941 suppl., 4-3320; Baldwin, 1937 suppl., 1267-1.

⁸ 2 Rev. Stat. 1852, ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12, sec. 2.

⁹ 2 Rev. Stat. 1872, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

commissioners selected the names from which both grand and petit jurors were drawn.¹⁰

227. [JURY DRAWINGS], Sept. 1935-Oct. 1939. In Miscellaneous, entry 213. List of names of persons drawn by jury commissioners, for jury service, showing date of drawing, and name of person.

X. PROBATION OFFICER

LEGAL STATUS

The office of probation officer has existed in Wells County ever since 1906 under acts of 1903, 1907, 1909, 1919, 1925, 1927, 1933, and 1941. He is appointed for an indefinite term by the judge of the circuit court and may be removed by the judge at any time. His authority expires with the expiration of the judge's term. Recommendations for the discharge of a probation officer may be made by the State Probation Department.

He must have successfully passed an examination conducted by the State Probation Department, and been certified by such Department, which determines all eligibility requirements.² He must be at least 21 years old; must be of good moral character; must be a citizen of the State; and must be (a) a college graduate, or (b) a high school graduate with 1 year's experience in social welfare work, or (c) have had 4 years' experience as a paid probation officer.³

He receives a salary in an amount fixed by the judge, not exceeding \$2,400 per year. On allowance of the judge, the probation officer receives the actual expenses necessarily incurred by him in the performance of his official duties.⁴

When required by the judge the probation officer must post bond in an amount fixed by the judge. The bond is -----

¹⁰ Acts 1817-18 (general), ch. 48, secs. 1, 2. Rev. L. 1824, ch. 56, secs. 1, 2, 5. Acts 1825, ch. 16, sec. 7. Acts 1826-27, ch. 26, secs. 1, 3. Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Acts 1840-41 (general), ch. 44. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10.

¹ Const. 1851, art. 15, sec. 2. Acts 1903, ch. 237. Acts 1907, ch. 236. Acts 1909, ch. 174. Acts 1919, ch. 234. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2904; Baldwin 15340. Acts 1941; Burns, 1941 suppl., 9-2848; Baldwin, 1941 suppl., 1218-20. Op. Atty. Gen. 1913, p. 581; 1935, p. 166.

² Acts 1937; Burns 9-2904; Baldwin 15340.

³ Information obtained from Mrs. Emory T. Scholl, director of the State Probation Department, on January 28, 1941, by William E. Chambers.

⁴ Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2905; Baldwin 15341. Acts 1941; Burns, 1941 suppl., 9-2848; Baldwin, 1941 suppl., 1758-20.

approved and kept by the judge.⁵ He must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁶

FUNCTIONS AND RECORDS

The probation officer acts under the direction of the court and under the supervision of the State Probation Department. He investigates all juvenile and criminal cases referred to him for investigation by the court; furnishes to each probationer a written statement of the conditions of probation and instructs him regarding the same; keeps informed concerning the conduct and condition of each probationer under his supervision by visiting, requiring reports, and otherwise; aids and encourages probationers to improve their conduct and condition; collects and issues receipts for money due from probationers; acts as parole officer over persons released on parole from any correctional institution upon request of authorities thereof and consent of the appointing judge; cares for children under 14 years old while in custody of the court; and has the power of a constable or sheriff in the execution of his duties.⁷

He may take under his supervision probationers transferred from the jurisdiction of another court by sending to such court a written notice bearing the written approval of the judge of the court to which he is attached.⁸

He must attend conferences of probation officers or of judges arranged by the State Probation Department for a study of probation problems.⁹

The probation officer must keep a detailed record of his work and an accurate and complete account of all moneys collected by him. From time to time he reports to the judge concerning the conduct and condition of probationers, the moneys collected by him, and other information required by the judge. Such reports are made monthly and at the expiration of probation period of any probationer, and at such other times as required by the court.¹⁰

⁵ Acts 1927; Burns 9-2213; Baldwin 2364.

⁶ Const. 1851, art. 15, sec. 4.

⁷ Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218, sec. 1. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2763, 2764. Acts 1903, 1905, 1907, 1913; Burns 9-2814, 9-2815; Baldwin 1761, 1762. Acts 1933; Burns 9-2903; Baldwin 15339. Acts 1921; Burns 28-509; Baldwin 6702. Acts 1941; Burns, 1941 suppl., 9-2849; Baldwin, 1941 suppl., 1758-21.

⁸ Acts 1927; Burns 9-2214; Baldwin 2365.

⁹ Acts 1913; Burns 9-2905; Baldwin 15341.

¹⁰ Acts 1927; Burns 9-2211, 9-2213; Baldwin 2362, 2364.

The duties of this office must be performed by the county director of public welfare when an order of the circuit court so requires.¹¹

XI. SHERIFF

LEGAL STATUS

The office of sheriff has existed in Wells County ever since 1837 under the requirements of the Constitution of 1816 and the Constitution of 1851. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election,⁵ must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in an amount between \$5,000 and \$15,000, to

¹¹ Acts 1936; Burns, 1941 suppl., 52-1130; Baldwin, 1937 suppl., 14078-21.

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, secs. 5, 6. Rev. L. 1824, ch. 35, sec. 17; ch. 59, sec. 1; ch. 100, secs. 5, 6, 8. Rev. L. 1831, ch. 97, sec. 5. Rev. Stat. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 1, 10. 2 Rev. Stat. 1852; Burns 49-2601, Baldwin 5493. *Gemmer v. State ex rel Stephens*, 163, Ind. 150, 71 N. E. 478 (1904).

Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 9. Acts 1836-37 (general), ch. 6, sec. 1.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 1, 8. Acts 1817-18 (general), ch. 19, 1, 6, 8. Rev. L. 1824, ch. 100, secs. 1, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1835, ch. 99 (first act), secs. 1, 6. Rev. Stat. 1843, ch. 4, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Acts 1817-18 (special), ch. 3, sec. 4. Rev. Stat. 1838, ch. 99 (first act), sec. 5.

⁴ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁵ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁶ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

⁷ Rev. L. 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8 (first act), sec. 6. Acts 1865, ch. 42 (misnumbered 6), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns 1941 suppl., 10 3102; Baldwin 1941 suppl., 2626. *McCracken v. State*, 27 Ind. 491 (1867).

be approved by the board of commissioners and filed with the clerk of the circuit court.⁹ The sheriff must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Before 1853 he was entitled to certain exemptions from arrest.¹⁰

The sheriff receives a regular salary of \$1,760 per year.¹¹ He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the State Department of Treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is paid \$400 annually by the county plus a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives.¹² For each meal served to the prisoners

⁸ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, secs. 2, 4, 7. Acts 1818-19, ch. 8, sec. 2. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4; ch. 86, sec. 18; ch. 100, secs. 2, 8. Acts 1825, ch. 21, sec. 3. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 97, secs. 2, 3. Rev. Stat. 1838, ch. 76; ch. 99 (first act), secs. 3, 7, 8. Rev. Stat. 1838, ch. 4, secs. 86, 101; ch. 78, secs. 69, 70. Acts 1905; Burns 10-3708; Baldwin 2600. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 12057, 12063, 13068. Acts 1851-52; Burns 49-127; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁹ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, secs. 4, 8. Rev. L. 1824, ch. 100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 92; ch. 38, sec. 71. Acts 1905; Burns 10-3708; Baldwin 2600. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 12054, 12055, 12057. Acts 1937; Burns, 1941 suppl., 49-2801; Baldwin, 1937 suppl., 5493. State ex rel. Chapman v. Lines, 4 Ind. 351 (1855).

¹⁰ Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 6. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing the foregoing laws).

¹¹ Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 40, sec. 10; ch. 42, sec. 23. Acts 1825, ch. 17, sec. 8. Acts 1827-28, ch. 89, sec. 5. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 26. Rev. Stat. 1838, ch. 4 (first act), sec. 1; ch. 21, sec. 26; ch. 23 (first act), sec. 9; ch. 33, sec. 12. Rev. Stat. 1843, ch. 7, sec. 27. 1 Rev. Stat. 1852, ch. 3, sec. 4; ch. 20, sec. 25. Acts 1937; Burns 49-1091; Baldwin 7574. Acts 1879 (Spec. Sess.); Burns 49-2808; Baldwin 5503.

¹² Acts 1822-23, ch. 27, ch. 91, sec. 6, sec. 2. Rev. L. 1821, ch. 29, secs. 83, 84; ch. 41, secs. 2, 12. Rev. Stat. 1843, ch. 55, sec. 101. 1 Rev. Stat. 1852, ch. 70, sec. 1. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1941 suppl., 49-1008; Baldwin, 1937 suppl., 5538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1933, 1937; Burns, 1941 suppl., 61-2613 (a); Baldwin, 1937 suppl., 15993 (a). McFarlan v. State, 149 Ind. 149 (1897); Board of County Comrs. v. Baker, 215 Ind. 163, 19 N. E. (2d) 250 (1939). Op. Atty. Gen. 1933, p. 582; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 258, 328.

in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the State Examiner.¹³

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹⁴ If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹⁵

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take an oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹⁶

The sheriff may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month. The sheriff may require each deputy to give bond. Each deputy must take the oath required of the sheriff, may perform all of the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁷

¹³ Acts 1817-18 (general), ch. 32, sec. 8, ch. 61, sec. 6. Rev. L. 1824, ch. 77, sec. 7. Rev. L. 1831, ch. 22, sec. 9. Rev. Stat. 1838, ch. 82, sec. 3. Rev. Stat. 1843, ch. 55, sec. 19; ch. 57, secs. 4, 9, 10. 1 Rev. Stat. 1852, ch. 58, sec. 11 (repealed by Acts 1937, ch. 157, sec. 3). 1 Rev. Stat. 1852; Burns 13-1012, 13-1013, Baldwin 12474, 13145. Acts 1935; Burns, 1941 suppl., 49-1313; Baldwin, 1935 suppl., 13155 1. Op. Atty Gen 1934, p. 107.

¹⁴ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 22, sec. 8. Acts 1897, 1899 Burns 49-81 to 49-834, 49-86, Baldwin 13154 to 13166, 13030, 13-68. Acts 1875; Burns 49-837, Baldwin 10652.

¹⁵ Acts 1805; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834, Baldwin 1060.

¹⁶ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1817-18 (general), ch. 19, secs. 7, 9. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 7, 9, 11. Rev. L. 1831, ch. 97, secs. 6, 7, 9. Rev. Stat. 1838, ch. 99 (first act), secs. 7, 9 p. 56. Rev. Stat. 1843, ch. 4, secs. 140, 155, 162, 163, ch. 38, sec. 83. Acts 1881 (Spec Sess.), Burns 25-700; Baldwin 2081. 1 Rev. Stat. 1852, Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852 Burns 49-902, Baldwin 5437. Akers v State ex rel Kent, 8 Ind. 484 (1846). State ex rel Culbert v Larkhauer, 142 Ind. 94, 41 N. E. 345 (1895). Information obtained from Oliver Stokes Jackson, Attorney General of Indiana, on August 29, 1919, by W. Davis Hamilton.

¹⁷ Acts 1818-19, ch. 17, sec. 3. Rev. L. 1824, ch. 100, sec. 10. Rev. L. 1831, ch. 97, sec. 10.

FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county.¹⁸ He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest;¹⁹ suppress all breaches of the peace, having authority to call to his aid the power of the county;²⁰ pursue and commit to jail all felons;²¹ maintain the jail and take care of the prisoners confined therein (persons held for investigation, detained witnesses, defendants awaiting trial, insane persons, and convicts);²² execute all process, orders, and warrants directed to him by legal authority,²³ and make returns

Rev. Stat. 1838, ch. 99 (first act), sec. 10, p. 565. Rev. Stat. 1843, ch. 38, sec. 79. 1 Rev. Stat. 1852; Acts 1855, 1915; Burns 49-501; Baldwin 13-08. 1 Rev. Stat. 1852; Burns 49-502, 49-503; Baldwin 13-09, 13-10. Acts 1921; Burns 49-501; Baldwin 13-11. Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. Boaz v. Tate, 43 Ind. 60 (1873). Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁸ Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1; ch. 57, sec. 9; ch. 62, sec. 4. Rev. L. 1831, ch. 21, sec. 10, Rev. Stat. 1838, ch. 22, sec. 10. Rev. Stat. 1843, ch. 18, sec. 72. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

¹⁹ Acts 1817-18 (general), ch. 11, sec. 11; ch. 20, sec. 1; ch. 57, sec. 9. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 10. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 72; ch. 40, secs. 43-47. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁰ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1. Rev. L. 1824, ch. 100, secs. 10, 14. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, secs. 10, 14. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, secs. 73, 80. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²¹ Acts 1817-18 (general), ch. 29, sec. 1. Rev. L. 1824, ch. 100, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²² Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 4, sec. 18; ch. 20, sec. 1; ch. 32, sec. 8. Acts 1819-20, ch. 72, sec. 11. Acts 1822-23, ch. 69. Rev. L. 1824, ch. 46, sec. 3; ch. 77, secs. 2, 4, 7; ch. 100, sec. 10. Rev. L. 1831, ch. 42, sec. 3; ch. 75, sec. 7; ch. 97, sec. 10. Rev. Stat. 1838, ch. 73, sec. 3; ch. 82, sec. 83; ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 13-1004, 13-1011; Baldwin 13-53, 13-65.

²³ Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 10, 35, ch. 5, sec. 39; ch. 11, sec. 11; ch. 20, sec. 1; ch. 27, secs. 2, 1; ch. 42, sec. 5; ch. 48, secs. 3, 4, ch. 62, secs. 2-4; ch. 63, sec. 2. Rev. L. 1824, ch. 1, sec. 6; ch. 5, sec. 10; ch. 24, sec. 6; ch. 34, sec. 12; ch. 56, secs. 3, 5; ch. 73, secs. 2, 22, 27; ch. 74, secs. 10, 41; ch. 86, secs. 5, 29, 42; ch. 100, sec. 10, ch. 117, secs. 1-3. Rev. L. 1831, ch. 1, secs. 1, 2; ch. 17, sec. 2; ch. 20, sec. 23; ch. 24, sec. 6, ch. 26, sec. 38; ch. 36, sec. 17; ch. 42, sec. 1; ch. 43, secs. 3, 8; ch. 49, sec. 2; ch. 53, sec. 2;

thereon;²⁴ and to preserve and maintain order in the circuit court (also formerly in the probate court and court of common pleas).²⁵

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail.²⁶

ch. 73 (misnumbered 78), sec. 10, ch. 81, sec. 4; ch. 97, sec. 10; ch. 103, sec. 1; ch. 108, secs. 2-4. Rev. Stat. 1838, ch. 21, sec. 29; ch. 23 (first act), sec. 5; ch. 30, sec. 6; ch. 43, sec. 2; ch. 46, sec. 3; ch. 49, secs. 1, 2; ch. 57 (first act), sec. 2; ch. 81 (first act), secs. 10, 51; ch. 81 (sixth act), sec. 1, p. 463; ch. 99 (first act), secs. 10, 12. Rev. Stat. 1843, ch. 4, sec. 121; ch. 12, sec. 81; ch. 38, secs. 73, 76, 88; ch. 45, secs. 160-162, 170; ch. 46, secs. 7, 167-171; ch. 48, secs. 6, 9, 32, 100, 102; ch. 50, secs. 8, 14; ch. 54, secs. 70, 93. 2 Rev. Stat. 1852, ch. 1, secs. 132, 134, p. 379; ch. 9, sec. 2, p. 24. Acts 1881 (Spec. Sess.); Burns 2-802 *et seq.*, 3-522, 3-1910 to 3-1912, 3-2705; Baldwin 83 *et seq.*, 791, 1026 to 1029, 1202. Acts 1859; Burns 4-3308; Baldwin 1279. Acts 1907; Burns 9-821; Baldwin 2117. Acts 1905; Burns 10-3707; Baldwin 2654. 2 Rev. Stat. 1852; Burns 49-2803; Baldwin 5493

²⁴ Acts 1816-17, ch. 4, secs. 6, 31. Acts 1817-18 (general), ch. 3, secs. 4, 5, 10; ch. 10, sec. 14; ch. 22, sec. 11; ch. 40, secs. 6, 7. Acts 1820-21, ch. 1, sec. 3. Acts 1821-22, ch. 64, sec. 2. Rev. L. 1824, ch. 40, sec. 22; ch. 45, sec. 14; ch. 73, sec. 4; ch. 74, sec. 8; ch. 99, sec. 2. Rev. L. 1831, ch. 36, secs. 17, 28; ch. 72, sec. 4; ch. 73 (misnumbered 78), secs. 8, 51. Rev. Stat. 1838, ch. 6, sec. 6; ch. 80, sec. 4; ch. 81, sec. 8; ch. 99 (first act), sec. 13; ch. 112, sec. 1. Rev. Stat. 1843, ch. 40, secs. 26-29, 32, 457, 469; ch. 41, sec. 14; ch. 48, secs. 10, 73; ch. 54, secs. 19, 70. 2 Rev. Stat. 1852, ch. 9, sec. 2, p. 24; ch. 1, secs. 109, 415, pp. 52, 131 (both repealed by Acts 1863, ch. 5, sec. 5); ch. 1, sec. 139, p. 380 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323); ch. 4, sec. 6, p. 387. Acts 1881 (Spec. Sess.); Burns 3-1913, 3-1914; Baldwin 1029, 1030. Acts 1905; Burns 9-1034; Baldwin 2179.

²⁵ Circuit court. Acts 1816-17, ch. 1, secs. 6, 9, 10; ch. 5, sec. 51. Acts 1817-18 (general), ch. 20, sec. 1. Acts 1821-22, ch. 64, sec. 4. Rev. L. 1824, ch. 100, sec. 10. Acts 1817-18 (general), ch. 20, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852, ch. 6, sec. 4, p. 11.

Probate court. Acts 1828-29, ch. 26, sec. 3. Rev. L. 1831, ch. 25, secs. 7, 48. Rev. Stat. 1838, ch. 24, secs. 7, 10. Rev. Stat. 1843, ch. 39, secs. 12, 17, 42, 45. Court abolished. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, ch. 8, sec. 43, p. 23.

Court of common pleas. 2 Rev. Stat. 1852, ch. 8, sec. 25, p. 20. Court abolished. Acts 1873; Burns 4-328; Baldwin 1417.

²⁶ Acts 1816-17, ch. 2, sec. 7; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 2, sec. 7; ch. 4, sec. 2; ch. 20, sec. 1; ch. 27, sec. 2; ch. 36, sec. 1; ch. 62, sec. 2; ch. 78, sec. 3. Acts 1818-19, ch. 7, sec. 2. Acts 1819-20, ch. 25. Acts 1820-21, ch. 13, sec. 2. Acts 1821-22, ch. 64, secs. 2, 3. Rev. L. 1824, ch. 40, secs. 14, 17, ch. 46, secs. 1, 3, ch. 47, secs. 1-3; ch. 50, sec. 1; ch. 75, secs. 3, 4; ch. 77, sec. 4; ch. 99, sec. 2; ch. 114, secs. 2, 4. Rev. Stat. 1838, ch. 27, sec. 14, ch. 28, sec. 4; ch. 45, secs. 14, ch. 48, sec. 2, ch. 51, secs. 1, 7. Rev. Stat. 1843, ch. 20, secs. 1, 22; ch. 45, sec. 185, ch. 54, secs. 18, 20. 2 Rev. Stat. 1852, ch. 1, secs. 106, 107, p. 51. Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. 1 Rev. Stat. 1852, 1865 (Spec. Sess.); Burns 13 1009; Baldwin 13463.

Proceedings by insolvent debtor to obtain release on assignment for benefit of creditors.

or releases them on bail as provided by law;²⁷ formerly set trial dates for prisoners unable to make bail;²⁸ formerly adjourned court when the judge was absent;²⁹ serves summonses in cases of misdemeanors;³⁰ deputizes bystanders to aid him in protecting persons from being lynched;³¹ calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;³² performs the duties of bailiff of the circuit court if no bailiff is appointed by the judge of that court;³³ transports persons committed to the charitable, correctional, and penal institutions operated by the State;³⁴ sells certain estrays³⁵ and driftage;³⁶ seizes and sells property as directed by any circuit court or superior court.³⁷

Acts 1817-18 (general), ch. 61, secs. 1-3, 5, 6. Acts 1819-20, ch. 72, secs. 10, 11. Acts 1820-21, ch. 5, sec. 1. Acts 1822-23, ch. 49, sec. 3. Rev. L. 1824, ch. 54, secs. 1-4, 10, 11, 14. Acts 1828-29, ch. 32, secs. 1, 2. Rev. L. 1831, ch. 27, sec. 14.

²⁷ Acts 1816-17, ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 6, 9. Acts 1821-22, ch. 23, sec. 8. Acts 1822-23, ch. 23. Rev. L. 1824, ch. 23, sec. 3; ch. 29, secs. 70, 82; ch. 40, sec. 14; ch. 77, sec. 2; ch. 100, sec. 10. Rev. L. 1831, ch. 26, sec. 90; ch. 97, sec. 10. Rev. Stat. 1838, ch. 26, sec. 90; ch. 51, sec. 8. Rev. Stat. 1843, ch. 54, sec. 21; ch. 57, secs. 22, 23. 2 Rev. Stat. 1852, ch. 1, sec. 108, p. 51.

²⁸ Acts 1825, ch. 17, secs. 1, 3, 6, 7.

²⁹ Acts 1816-17, ch. 1, sec. 10. Acts 1817-18 (general), ch. 2, sec. 10. Rev. L. 1824, ch. 24, sec. 8. Rev. L. 1831, ch. 22, sec. 7. Rev. Stat. 1838, ch. 23 (first act), sec. 7. Rev. Stat. 1843, ch. 38, sec. 34.

³⁰ Acts 1905, 1937; Burns, 1941 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1939; Burns, 1941 suppl., 47-2307, 47-2308; Baldwin, 1939 suppl., 11-89-174, 11189-175.

³¹ Acts 1817-18 (general), ch. 48, sec. 3. Rev. L. 1824, ch. 100, sec. 14. Acts 1905, Burns 10-3309, 10-3310; Baldwin 2530, 2531. State ex rel. Maxwell v. Dudley, 161 Ind. 431, 68 N. E. 899 (1903).

³² Acts 1881 (Spec. Sess.); Burns 2-2002; Baldwin 3-7. Acts 1905; Burns 9-1501; Baldwin 2246.

³³ Acts 1921, 1935; Burns, 1941 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

³⁴ Rev. L. 1824, ch. 29, secs. 83, 84. Rev. L. 1831, ch. 26, secs. 86, 87; ch. 41, secs. 25, 26. Rev. Stat. 1838, ch. 26, secs. 86, 87. Rev. Stat. 1843, ch. 51, sec. 74. 2 Rev. Stat. 1852, ch. 1, secs. 176, 137, p. 379. Acts 1905; Burns 9-2-32, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4205. Acts 1911; Burns 22-1716; Baldwin 4200. Acts 1919; Burns 22-1809; Baldwin 4264.

³⁵ Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1838, ch. 37, sec. 8. Rev. Stat. 1843, ch. 21, sec. 13. 1 Rev. Stat. 1852; Burns 51-311; Baldwin 13238.

³⁶ Rev. L. 1831, ch. 35, sec. 9. Rev. Stat. 1838, ch. 37, sec. 10. Acts 1901, 1913; Burns 51-332; Baldwin 13259.

³⁷ Acts 1816-17, ch. 5, sec. 51. Acts 1817-18 (general), ch. 3, sec. 4; ch. 4, sec. 18; ch. 6, sec. 3; ch. 7, secs. 2, 8, 22; ch. 10, secs. 10, 14; ch. 11, secs. 1, 4; ch. 22, secs. 2-6, 8; ch. 24,

takes security bonds in connection with such seizures and sales,³⁸ and executes conveyances to the purchasers;³⁹ collects fee-bills issued by authorized public officials;⁴⁰ executes the process of the Supreme Court of Indiana,⁴¹ the Appellate Court of Indiana,⁴² the State Board of Tax Commissioners,⁴³ the State Department of Treasury (collection of gross income tax),⁴⁴ the State Unemployment Compensation Board (collection of assessments against employers),⁴⁵ the

sec. 2; ch. 40, secs. 6, 7; ch. 61, secs. 2, 3; ch. 66, sec. 1. Acts 1819-20, ch. 56, secs. 1-3. Acts 1821-22, ch. 4, secs. 4-6; ch. 14, sec. 1; ch. 79, sec. 2. Acts 1822-23, ch. 48, sec. 10. Rev. L. 1824, ch. 5, secs. 2, 8, 10, 13, 22, 26, 28; ch. 6, sec. 4; ch. 34, secs. 2, 5, 11; ch. 39, sec. 6; ch. 40, secs. 3-5, 7-10, 12, 14, 17-19; ch. 45, sec. 10; ch. 65, sec. 6; ch. 99, sec. 2; ch. 114, sec. 3. Acts 1825, ch. 23, sec. 1. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 6, secs. 6, 7; ch. 7, sec. 5; ch. 36, secs. 2, 6, 11, 25, 26; ch. 79, sec. 5; ch. 80, sec. 6. Rev. Stat. 1838, ch. 6, secs. 6, 7, 11, 18; ch. 7 (first act), sec. 5; ch. 44, secs. 25, 26; ch. 88, secs. 4-6. Rev. Stat. 1843, ch. 40, secs. 371-384, 390-392, 407, 413-427; ch. 41, secs. 12-14, 30, 50; ch. 42, sec. 17; ch. 40, sec. 167. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 445, 446, 457, 458, pp. 137, 139. Acts 1881 (Spec. Sess.), Burns 2-2601, 3-1819; Baldwin 574, 1014.

³⁸ Acts 1816-17, ch. 6, sec. 1. Acts 1817-18 (general), ch. 3, secs. 6, 9; ch. 4, sec. 18; ch. 11, sec. 10; ch. 42, secs. 24, 26. Acts 1821-22, ch. 4, secs. 4, 5; ch. 23, sec. 8; ch. 43, sec. 4. Acts 1822-23, ch. 46, sec. 4; ch. 48, sec. 10. Rev. L. 1824, ch. 34, secs. 11, 12; ch. 40, sec. 100, ch. 65, sec. 5. Acts 1825, ch. 23, secs. 4, 5. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 15, sec. 7, ch. 80, sec. 5. Rev. Stat. 1838, ch. 14 (first act), sec. 5; ch. 26, sec. 91, ch. 39 (first act); ch. 88, sec. 5. Rev. Stat. 1843, ch. 40, secs. 385-387; ch. 41, sec. 34.

³⁹ Acts 1820-21, ch. 19, sec. 6. Rev. Stat. 1843, ch. 40, secs. 424-426. 2 Rev. Stat. 1852, ch. 1, sec. 472, p. 143. Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1831; Burns 3-1806; Baldwin 1068.

⁴⁰ Acts 1817-18 (general), ch. 40, secs. 5-7, 9; ch. 66, sec. 1. Acts 1822-23, ch. 26, secs. 1-3. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 7, 9; ch. 72, sec. 23; ch. 100, sec. 11. Acts 1825, ch. 24, secs. 1-3. Rev. Stat. 1838, ch. 40 (first act), secs. 8, 15, 16, 19; ch. 99 (first act), sec. 11. Acts 1881 (Spec. Sess. 1; Burns 2-3303, 2-3310; Baldwin 525, 528. Acts 1875 (Spec. Sess.); Burns 49-1425, 49-1476; Baldwin 13119, 13120. Acts 1855, Burns 49-1427, 49-1428; Baldwin 13122, 13123.

⁴¹ Acts 1816-17, ch. 1, secs. 6, 9, 10. Acts 1817-18 (general), ch. 1, secs. 6, 9, 10. Acts 1822-23, ch. 91, secs. 1, 3. Rev. L. 1824, ch. 1, sec. 6; ch. 25, secs. 6, 12, ch. 100, sec. 13. Rev. L. 1831, ch. 24, sec. 6; ch. 97, sec. 13. Rev. Stat. 1838, ch. 25, secs. 11, 12, 19. Rev. Stat. 1843, ch. 37, secs. 126-133, 137. Acts 1891; Burns 4-228, 4-230; Baldwin 1375, 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

⁴² Acts 1891; Burns 4-226; Baldwin 1375.

⁴³ Acts 1919; Burns 61-1003; Baldwin 10705.

⁴⁴ Acts 1933, 1937; Burns, 1941 suppl., 64-2613 (a), Baldwin, 1937 suppl., 15993 (a). Op. Atty. Gen. 1938, p. 302; 1939, pp. 171, 208.

⁴⁵ Acts 1936 (Spec. Sess.), 1939; Burns, 1941 suppl., 52-1514 (b); Baldwin, 1939 suppl., 10168-61.

State Industrial Board,⁴⁶ the county board of election commissioners, and the county board of canvassers,⁴⁷ when officially directed to do so; attends sessions of the board of commissioners,⁴⁸ county council,⁴⁹ and board of review,⁵⁰ and executes the orders of those boards; issues licenses for the retail sale of pistols;⁵¹ makes investigations of poultry dealers, and receives weekly reports from them;⁵² kills unlicensed dogs after June 15 each year;⁵³ assists the State Board of Health in the administration of laws concerning contagious diseases;⁵⁴ and gives public notice of the holding of elections.⁵⁵ In the early days of the county he performed various duties concerning elections⁵⁶ and the distribution of journals and session laws of the Legislature.⁵⁷ Formerly

⁴⁶ Acts 1937; Burns, 1941 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

⁴⁷ Acts 1905; Burns 29-1408; Baldwin 7384.

⁴⁸ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6; ch. 86, secs. 3, 29, 42. Acts 1826-27, ch. 13, sec. 6. Acts 1827-28, ch. 77, sec. 19. Acts 1828-29, ch. 16, sec. 6; ch. 17, sec. 6. Rev. L. 1831, ch. 20, sec. 6; ch. 81, sec. 3; ch. 82, sec. 48. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

⁴⁹ Acts 1899; Burns 26-510; Baldwin 5374.

⁵⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-120; Baldwin 15700.

⁵¹ Acts 1935, 1937; Burns, 1941 suppl., 10-4742; Baldwin 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the Superintendent of the State Police. *Ibid.*

⁵² Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10487. Acts 1903; Burns 35-411; Baldwin 6541.

⁵³ Acts 1937; Burns, 1941 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

⁵⁴ Acts 1917; Burns 35-504; Baldwin 8546.

⁵⁵ Acts 1816-17, ch. 9, sec. 15; ch. 12, sec. 5. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1817-18 (general), ch. 17, sec. 1; ch. 49, sec. 5. Rev. L. 1824, ch. 35, sec. 15; ch. 36, sec. 1, ch. 37, sec. 1; ch. 59, sec. 3. Acts 1827-28, ch. 80, secs. 1, 5. Acts 1829-30, ch. 47. Rev. L. 1831, ch. 59, sec. 4. Rev. Stat. 1838, ch. 33, sec. 11; ch. 34, secs. 1, 3. Rev. Stat. 1843, ch. 5, secs. 8, 10, 12, 76, 135, ch. 18, secs. 21-24; ch. 25, sec. 73. 1 Rev. Stat. 1852, ch. 31, sec. 2; ch. 119, sec. 2. Acts 1831 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. Demaree v. Johnson, 150 Ind. 419, 49 N. E. 1062 (1897).

⁵⁶ Acts 1816-17, ch. 9, secs. 1, 16, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, secs. 1, 15, 16, 19, 22; ch. 17, secs. 1, 8; ch. 49, sec. 5. Acts 1822-23, ch. 13, secs. 1, 2. Rev. L. 1824, ch. 35, secs. 16, 22; ch. 36, sec. 1; ch. 37, sec. 2; ch. 59, sec. 3. Acts 1826-27, ch. 13, sec. 20. Rev. L. 1831, ch. 23, sec. 2; ch. 32, secs. 1, 16, 19, 22; ch. 57, secs. 1, 3. Rev. Stat. 1838, ch. 32, secs. 1, 23, 34; ch. 33, sec. 2; ch. 61, secs. 1-3. Rev. Stat. 1843, ch. 5, secs. 57, 58, 90, 91, 101, 110, 114, 115, 126. 1 Rev. Stat. 1852, ch. 32, sec. 3; ch. 34, secs. 7, 8. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2.

⁵⁷ Acts 1825, ch. 34, secs. 6, 7. Rev. Stat. 1843, ch. 6, secs. 73, 75.

he was required to bring suit for statutory penalties against persons passing bank notes issued by banks located outside the state.⁵⁸

The sheriff keeps in his office, open to public inspection, written information (furnished by the State Motor Vehicle Commissioner every 90 days) as to all motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, and revoked in the State.⁵⁹ Information concerning stolen motor vehicles is reported by the sheriff to the State Motor Vehicle Commissioner.⁶⁰ The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the State Division of Public Safety within 24 hours thereafter.⁶¹ All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the State Motor Vehicle Commissioner.⁶²

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the State Fire Marshall.⁶³ From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.⁶⁴

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county treasurer.⁶⁵ Fines imposed by the circuit court are collected

⁵⁸ Rev. Stat. 1838, ch. 75, sec. 2.

⁵⁹ Acts 1927, ch. 33, sec. 3. Acts 1937, 1939; Burns, 1941 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

⁶⁰ Acts 1921; Burns 47-314; Baldwin 11142.

⁶¹ Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1941 suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11183-54, 11189 55.

⁶² Acts 1927; Burns, 1941 suppl., 47-418; Baldwin, 1937 suppl., 11317-17.

⁶³ Acts 1939; Burns, 1941 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3. Information obtained from Clem Smith, State Fire Marshal, on April 15, 1940, by W. Davis Hamilton.

⁶⁴ Acts 1911, ch. 98, secs. 5-6 (repealed by Acts 1935 ch. 271, sec. 1).

⁶⁵ Acts 1817-18 (general), ch. 40, sec. 9. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 2, 9; ch. 72, sec. 23. Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1843, ch. 5, secs. 110, 121; ch. 21, sec. 13; ch. 38, sec. 75. 1 Rev. Stat. 1852, ch. 37, secs. 1, 6. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1865, 1865, 1915, 1919; Burns 49-1311; Baldwin 7550. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 10568-1. Acts 1895, 1903, 1911; Burns 49-1402; Baldwin 7577.

by him and paid over to the county treasurer.⁶⁶

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁶⁷

Whenever the sheriff is unable to attend to his duties, the coroner performs them;⁶⁸ and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.⁶⁹

The sheriff keeps a record of the service of process⁷⁰ and record of executions. He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.⁷¹ He keeps a jail record,⁷² a poultry dealers' record,⁷³ and fee and cash records.⁷⁴

⁶⁶ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 26, secs. 2, 3. Rev. L. 1824, ch. 22, sec. 8; ch. 29, sec. 80; ch. 57, sec. 42; ch. 100, sec. 11. Acts 1825, ch. 69, secs. 1, 2. Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

Fines imposed by justices of the peace. Rev. L. 1824, ch. 57, sec. 42.

⁶⁷ Acts 1816-17, ch. 2, sec. 10. 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

⁶⁸ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. 2 Rev. Stat. 1852, Acts 1903; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

⁶⁹ Acts 1825-26, ch. 42, sec. 20. Rev. Stat. 1838, ch. 8 (second act), sec. 11, p. 460. 2 Rev. Stat. 1852, Burns 4-322; Baldwin 1411.

⁷⁰ Acts 1816-17, ch. 4, sec. 31. Acts 1817-18 (general), ch. 32, sec. 6.

Record required by the State Board of Accounts. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁷¹ Rev. L. 1824, ch. 57, sec. 42. Acts 1825, ch. 69, secs. 1, 2. Acts 1827-28, ch. 68, sec. 3. Rev. Stat. 1843, ch. 57, secs. 14-16. Acts 1905; Burns 9-1074; Baldwin 2179. 1 Rev. Stat. 1852; Burns 13-1015, 13-1016; Baldwin 12457, 12458. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

⁷² Acts 1817-18 (general), ch. 32, secs. 6, 8. Rev. L. 1821, ch. 75, sec. 5. Rev. L. 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

⁷³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10187.

⁷⁴ Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 191, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

Quarterly and at the end of his term of office he reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.⁷⁵

SERVICE ON WRITS

228. SHERIFF'S DOCKET, 1850-89. 16 vols. (10 vols. unlabeled; 10, 10-13; 1 vol. unlabeled).

Record of service on writs, showing dates of court term, writ, service, and return; cause number; names of plaintiff, defendant, person processed, witnesses, and jurors; record of jurors' services; and amount of fees. Arr. chron. by date of court term and numer. thereunder by cause no. No index. Hdw. 390 pp. 18 x 13 x 2. 10 vols., 1850-79, jail attic; 6 vols., 1880-89, c. c. attic strg. room.

229. SHERIFF'S DOCKET COMMISSIONERS' COURT, 1888-1920. 2 vols. (1, 2).

Record of service on writs in commissioners' court, showing dates of writ, service, and return; nature of writ; name of person served; and amount of sheriff's fee. Arr. chron. by date of service. No index. Hdw. 200 pp. 16 x 12 x 2. 1 vol., 1888-Jan. 5, 1915, attic strg. room; 1 vol., Jan. 6, 1915-20, sher. off.

230. REGISTER OF FOREIGN WRITS, 1885-Jan. 1906, 1910-May 4, 1914. 3 vols. (1, 2; 1 vol. unlabeled).

Record of service on writs from foreign counties, showing dates received and served; names of plaintiff, defendant, person served, foreign county, and court; and amounts of fees and costs. Arr. chron. by date writ received. Indexed alph. by name of plaintiff. Hdw. 200 pp. 18 x 12 x 1. Attic strg. room.

EXECUTIONS ON JUDGMENTS

231. SHERIFF'S EXECUTION DOCKET, 1873-. 13 vols. (2 vols. unlabeled; 2-12).

Record of executions of judgments showing date, number, and kind of writ; dates of judgment, execution, and return; names of plaintiff, defendant, and judgment debtor; and amounts of judgment, interest, and costs. Arr. chron. by date of writ. Indexed alph. by name of plaintiff. Hdw. 425 pp. 18 x 13 x 2½. 2 vols., 1873-Aug. 27, 1877, jail attic; 8 vols., Aug. 31,

⁷⁵ Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913, Burns 49-1402; Baldwin 7577.

1877-Dec. 16, 1909, c. c., attic strg. room; 3 vols., Dec. 18, 1909, c. c., sher. off.

232. FOREIGN EXECUTION DOCKET, 1882-89. 2 vols. (1 vol. unlabeled; 2).

Record of executions on judgments rendered in foreign courts against residents of Wells County, showing date and kind of writ; dates of judgment, execution, and return; names of plaintiff, defendant, judgment debtor, and foreign court; and amounts of judgment, interest, and costs. Arr. chron. by date of writ. Indexed alph. by name of plaintiff. Hdw. 215 pp. 18 x 13 x 1 $\frac{1}{2}$. attic strg. room.

233. [SHERIFF'S CERTIFICATE OF SALE], 1926-. 4 pigeonholes. Sheriff's certificates of sales of property to satisfy judgments, showing dates of judgment and sale; names of plaintiff, defendant, and purchaser; amounts of judgment, interest, costs, and sale; and location and description of property. Arr. chron. by date of sale. No index. Hdw. 3 x 4 x 10. Sher. off.

JAIL RECORDS

234. JAIL REGISTER, 1880-Sept. 27, 1914, Mar. 15, 1916-. 4 vols.

Record of prisoners committed to jail, showing dates of commitment and release; name, age, sex, address, and place of birth of prisoner; nature of charge; sentence imposed; number of days of incarceration; and amount of costs for board. Arr. chron. by date of commitment. No index. Hdw. 280 pp. 16 x 3 x 2. 2 vols., 1880-Mar. 24, 1905, c. c., attic strg. room; 1 vol., Mar. 25, 1905-Sept. 27, 1914, jail attic; 1 vol., Mar. 15, 1916-, c. c., sher. off.

FEE AND CASH RECORDS

235. FEE BOOK, 1874-. 16 vols. (2; 1 vol. unlabeled; 1-14).

Record of fees collected, showing date and kind of writ; number and nature of cause; names of plaintiff, defendant, and payer; nature and amount of fee; and date and amount of payment. Also contains: Sheriff's foreign fee book, 1874-1921, entry 236. Register of sheriff's costs, 1922-, entry 238. Arr. chron. by date of writ. Indexed alph. by name of plaintiff. Hdw. 260 pp. 16 x 12 x 2. 10 vols., 1874-1921, attic strg. room; 6 vols., 1922-, sher. off.

236. SHERIFF'S FOREIGN FEE BOOK, 1922-. 2 vols. (1; 1 vol. unlabeled). 1874-1921 in Fee Book, entry 235. Register of fees collected for service on foreign writs, showing date, number, and kind of writ; date of service; names of county, plaintiff, and defendant; itemized list of fees; and date and amount of payment. Arr. chron. by date of writ. Indexed alph. by name of county. Hdw. 280 pp. 13 x 9 x 1½. Sher. off.

237. CASH BOOK, Sept. 1893-Aug. 1894, 1914-. 2 vols. (1; 1 vol. unlabeled). Record of receipts, showing date, nature, and amount of receipt; names of payer and court; number and nature of cause; and date and amount of payment to treasurer. Arr. chron. by date of receipt. No index. Hdw. 365 pp. 17 x 12 x 2. 1 vol., Sept. 1893-Aug. 1894, attic strg. room; 1 vol., 1914-, sher. off.

238. REGISTER OF SHERIFF'S COSTS, 1897-21. 1 vol. (2). 1922-in Fee Book, entry 235.

Register of fees collected for serving writs, showing date and kind of writ, cause number, date and amount of payment, and date paid to treasurer. Arr. chron. by date of payment. No index. Hdw. 150 pp. 18 x 12 x 1. Attic strg. room.

239. MILEAGE CLAIM RECORD, 1929-. 1 vol. (1). Record of miles traveled, showing date of service; cause number; names of plaintiff, defendant, and person served; number of miles traveled each trip and for each month; and amount of fees. Arr. chron. by date of service. No index. Hdw. 500. pp. 16 x 11 x 3. Sher. off.

MISCELLANEOUS RECORDS

240. [RECORD OF THEFTS], May 13, 1937-. 1 vol. Record of thefts reported, showing date of report, name of person reporting, description of article stolen, and name of person suspected or arrested. Arr. chron. by date of report. Indexed alph. by name of person reporting. Hdw. 300 pp. 10 x 8 x 1. Sher. off.

241. POULTRY DEALERS' WEEKLY REPORT, Nov. 4, 1939-. 2 vols. Poultry dealers' weekly reports of purchases, showing date and number of report; date of purchase; number, description, and weight of poultry; and name, address, auto license number, statement of procurement, and signature of seller. No obvious arr. No index. Hdw. 8 x 14 x 3. Sher. off.

242. [AUTO ACCIDENTS], 1936-. 1 f. d.

Reports of automobile accidents resulting in injury or death to any person and property damages totaling \$25 or more, showing dates of report and accident; diagram and description of place of accident; description of automobiles involved; nature of accident; description of damages or injuries to persons; names of persons involved in accident; and name of person reporting. Arr. chron. by date of report. No index. Hdw. and typed. 5 x 10 x 28. Sher. off.

243. [FIREARM DEALERS' LICENSES], 1925-. In Dealers' Licenses To Sell Firearms, entry 62.

Copies of licenses issued to dealers to sell revolvers, showing date and term of license and name and business address of dealer.

244. [DEALERS' REPORTS], 1925-. In Dealers' Licenses to Sell Firearms, entry 62.

Dealers' reports of revolvers sold, showing dates of report and sale; name and address of dealers; name, address, place of birth, occupation, and description of purchaser; and description of revolver.

MAPS

245. WELLS COUNTY, 1930. 1 map.

Communication map, showing date of map; county and township boundary lines; name of township; Congressional township section and range lines and numbers; plats of lands outside of cities and towns; name of owner; acreage of each tract; names and locations of cities, towns, and villages; and locations of highways, railroads, schools, churches, and streams. Drawn by James T. Redding. Ptd. No scale given. 60 x 48. Sher. off.

XII. CORONER

LEGAL STATUS

The office of coroner has existed in Wells County ever since 1837 under the requirements of the Constitution of 1816 and the Constitution of 1851. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.¹ He is commissioned by the Governor

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, sec. 5. Rev. L. 1824, ch. 35, sec. 13; ch. 100, secs.

of Indiana² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ Before May 6, 1853 he could not practice law.⁶ He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The coroner must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁸

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile traveled in performing his -----

5, 6, 8. Rev. L. 1831, ch. 97, sec. 5. Rev. L. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 2, 10.

Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13, sec. 1. Acts 1817-18 (general), ch. 19, secs. 1, 6. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 1, 2, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 53. 2 Rev. Stat. 1852, ch. 7, sec. 1, p. 13. 1 Rev. Stat. 1852; Burns 49-201, Baldwin 13095.

³ Const. 1816, art. 4, sec. 25. Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Rev. Stat. 1838, ch. 4, sec. 10.

⁴ Const. 1851, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁵ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, sec. 73.

⁶ Rev. L. 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). Jones v. Cavins, 4 Ind. 305 (1853)

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, sec. 3. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4, ch. 100, secs. 4, 8. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 15, sec. 7; ch. 97, sec. 2. Rev. Stat. 1838, ch. 99 (first act), secs. 2, 6. Rev. Stat. 1843, ch. 4, sec. 101; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52, Burns 49-123, Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁸ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, sec. 4. Rev. L. 1824, ch. 100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), secs. 4, 8. Rev. Stat. 1843, ch. 4, sec. 77; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner may employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition,⁹ and may appoint deputies when needed.¹⁰

For sufficient legal grounds the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹³

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.¹⁴

FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹⁵ County and city health officers

⁹ Rev. Stat. 1838, ch. 40 (first act), secs. 1, 7, 11. 1 Rev. Stat. 1852, ch. 37, secs. 1, 4. Acts. 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49:2917; Baldwin, 1935 suppl., 5452.

¹⁰ 1 Rev. Stat. 1852; Burns 49:501, 49:502; Baldwin 13108, 13109.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 29, sec. 34. Rev. L. 1831, ch. 26, sec. 8. Acts 1897, 1899; Burns 49:821 to 49:832, 49:836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49:837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49:834; Baldwin 13050.

¹³ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8; ch. 19, sec. 7. Rev. L. 1824, ch. 100, secs. 7, 8. Rev. L. 1831, ch. 97, secs. 6, 7. Rev. Stat. 1838, ch. 99 (first act), secs. 6, 7. Rev. Stat. 1843, ch. 4, secs. 155, 162, 163; ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29:701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49:405, 49:408, 49:409; Baldwin 13104, 13106, 13107. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Rev. L. 1824, ch. 100, secs. 15, 16, 21. Rev. L. 1831, ch. 97, secs. 15, 16. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.); 1935; Burns, 1941 suppl., 49:2904a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49:2905; Baldwin 5444.

¹⁵ Acts 1817-18 (general), ch. 20, sec. 2. Rev. L. 1824, ch. 100, sec. 15. Rev. L. 1831, ch. 97, secs. 15-18. Rev. Stat. 1838, ch. 99 (first act), sec. 15. Rev. Stat. 1843, ch. 56, sec. 1. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.); 1935; Burns, 1941 suppl., 49:2904a; Baldwin 1935 suppl., 5439a.

must notify the coroner when they find any evidence that the death of a person was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit, and the coroner must hold an inquest concerning the death of the person mentioned in such report.¹⁶ He holds inquests without a jury,¹⁷ and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.¹⁸ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,¹⁹ and may require witnesses to give recognizances for their appearance at the trial of the accused. The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken²⁰ and a written report giving a minute description of the deceased and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to the county treasurer for the common school fund.²¹

The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.²² When the coroner is absent from the county or unable to attend an inquest,

¹⁶ Acts 1877, 1878, Burns 55-115; Baldwin 548. Op. Atty. Gen. 1884, p. 12.

¹⁷ Acts 1817-18 (general), ch. 20, secs. 2-5. Rev. L. 1824, ch. 103, secs. 15-18. Acts 1877 (Spec. Sess.) Burns 10-207; Baldwin 544.

¹⁸ Acts 1877-18 (general), ch. 20, secs. 6, 7. Rev. L. 1824, ch. 103, sec. 20. Rev. L. 1831, ch. 97, sec. 22. Rev. Stat. 1829, ch. 99 (first act), sec. 27. Rev. Stat. 1842, ch. 96, sec. 18. Rev. Stat. 1852, Burns 10-206; Baldwin 544.

¹⁹ Acts 1817-18 (general), ch. 20, sec. 9. Rev. L. 1824, ch. 103, sec. 22. Rev. L. 1831, ch. 97, sec. 22. Rev. Stat. 1829, ch. 99 (first act), sec. 22. Rev. Stat. 1842, ch. 96, sec. 18. Rev. Stat. 1852, Burns 10-204; Baldwin 546.

²⁰ Acts 1817-18 (general), ch. 20, sec. 8. Rev. L. 1824, ch. 103, sec. 21. Rev. L. 1831, ch. 97, sec. 18. Rev. Stat. 1829, ch. 99 (first act), sec. 21. Rev. Stat. 1842, ch. 96, sec. 18. Rev. Stat. 1852, Burns 10-205; Baldwin 544. 2 Rev. Stat. 1852, Acts 1877 (Spec. Sess.) Burns 10-208; Baldwin 542.

²¹ Rev. Stat. 1852, ch. 99 (first act), sec. 18. Rev. Stat. 1852, ch. 96, sec. 21. Rev. Stat. 1852, Acts 1877 (Spec. Sess.), Burns 10-209, 210, 211; Baldwin 544, 544, 547.

²² Field, 1416, art. 1778, § 1, art. 78, § 1, art. 80, § 1, art. 81, § 2, sec. 1, art. 6, sec. 1, art. 7, sec. 2. *State v. Board of County Comm.*, 100 Ind. 101, 102, 11 N. E. 411 (1881). *People v. Charles J. v. Industrial Board of Chicago*, 100 Ill. 30, 11 N. E. 385 (1881). *People v. House of Representatives v. Industrial Board of Chicago*, 100 Ill. 30, 11 N. E. 385 (1881). *People of New York v. Common*, 100 N. Y. 532, 30 N. E. 105 (1891).

any justice of the pence of the county may hold the inquest.²³ Each death coming under the supervision of the coroner must be reported, on a blank form prescribed by the State Board of Health, within 3 days after holding the inquest, to the county or city health officer having jurisdiction.²⁴ The coroner makes a written report each month, to the State Department of Public Safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²⁵

He is a peace officer with the same powers as the sheriff.²⁶ The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.²⁷ All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²⁸

The coroner is not required to keep any records permanently.²⁹

For coroner's reports filed in this county see entry 107

XIII. PROSECUTING ATTORNEY

LEGAL STATUS

The office of prosecuting attorney was created by an act of 1831; was reestablished by acts of 1838, 1843, 1847, and the Constitution of 1851; and has existed in Wells

²³ Acts 1817-18 (general), ch. 20, sec. 10. Rev. L. 1834, ch. 100, sec. 23. Rev. L. 1831, ch. 97, sec. 23. Rev. Stat. 1838, ch. 99 (first act), sec. 23. Rev. Stat. 1843, ch. 56, sec. 16. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

²⁴ Acts 1907, 1913; Burns 35-115; Baldwin 8398.

²⁵ Acts 1939; Burns, 1941 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

²⁶ Acts 1817-18 (general), ch. 19, sec. 9; ch. 20, sec. 1. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 9. Acts 1829-30, ch. 46, sec. 16. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 58, sec. 82. 2 Rev. Stat. 1852; Acts 1937; Burns 49-2901; Baldwin 5436.

²⁷ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 37, sec. 2; ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. Rev. Stat. 1838, ch. 99 (first act), sec. 9. Rev. Stat. 1843, ch. 58, sec. 83. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁸ Acts 1819-20, ch. 46, sec. 2. Rev. Stat. 1813, ch. 58, sec. 84. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

²⁹ Board of County Comrs. v. Gillum, 92 Ind. 511 (1884). Information obtained from E. P. Brennan, State Examiner, on August 30, 1939, by W. Davis Hamilton.

County since 1837. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on reelection.¹ Wells County alone constitutes the twenty-eighth judicial circuit.²

He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the judicial circuit after his election, and must not hold any other lucrative office.⁶ An act of 1843, which was repealed by an act of 1852, provided: "No person shall be elected to the office of prosecuting attorney who shall not have a license to practice law in the circuit courts of this State."⁷

He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),⁸ and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹

The prosecuting attorney of Wells County receives a regular salary of \$1,700 per year payable out of the county treasury.¹⁰ He is entitled to reimbursement for certain

¹ Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852, Burns 49-2501. Baldwin 5456. Robinson v. Moser, 203 Ind. 66, 179 N. E. 270 (1931). See footnotes 20, 21 herein.

² Acts 1927, ch. 12, sec. 1.

From the organization of Wells County in 1837 until March 5, 1821 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

³ Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 73, secs. 1, 2. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 266. 1 Rev. Stat. 1852, Burns 49-2501. Baldwin 13096.

⁴ Const. 1851, art. 15, sec. 3. Rev. Stat. 1843, ch. 73, sec. 1.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9, art. 6, sec. 6. 2 Rev. Stat. 1852, Burns 49-2501. Baldwin 5456. State ex rel. Howard v. Johnston, 101 Ind. 223 (1885).

⁷ Rev. Stat. 1843, ch. 73, sec. 5 (repealed by 1 Rev. Stat. 1852, ch. 9).

⁸ Rev. L. 1824, ch. 24, sec. 11. Rev. L. 1851, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 38, sec. 4, ch. 4, sec. 86-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-110; Baldwin 13097, 13062, 13068. 2 Rev. Stat. 1852, Burns 49-1322. Baldwin 5458.

⁹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 1, sec. 4. Rev. L. 1824, ch. 24, sec. 11. Rev. L. 1851, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 93, ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 6, p. 266. Acts 1851-52, Burns 10-202, Baldwin 2600. 1 Rev. Stat. 1852, Burns 49-601. Baldwin 13024.

¹⁰ Acts 1850, ch. 10, sec. 5. Acts 1851-52, ch. 12, sec. 1, 2. Acts 1851, ch. 3, sec. 5. Rev. L. 1824, ch. 24, sec. 12. Acts 1825, ch. 17, sec. 8. Acts 1828-29, ch. 44, sec. 1. Rev. L. 1851, ch. 10,

traveling expenses.¹¹ He is not permitted to retain, as compensation for himself, any fees collected by him.¹²

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.¹³

If the prosecuting attorney is convicted of corruption or other high crime, he may be removed from office by the Supreme Court. This is the only method by which he may be removed from office.¹⁴

Any vacancy in the office of prosecuting attorney is filled through appointment by the Governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.¹⁶ The deputies must take the oath require

sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1933, 1937; Burns, 1941 suppl., 49-2601. Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2692, 49-2695; Baldwin 7549, 7550. Op. Atty. Gen. 137, p. 636; 1978, p. 234.

¹¹ Acts 1913; Burns 49-2512; Baldwin 2567. Acts 1933, 1937, Burns, 1941 suppl., 49-2601. Baldwin, 1937 suppl., 7547.

¹² Acts 1933; Burns 49-2601, 49-2695; Baldwin 7547, 7550. See footnote 68 herein.

¹³ Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3101; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

¹⁴ Const. 1851, art. 7, sec. 12. Acts 1816-17, ch. 10, sec. 15. Acts 1897; Burns 19-819; Baldwin 13152. State ex rel. Gibson v. Friedley, 135 Ind. 119, 34 N. E. 872 (1893); State v. Patterson, 181 Ind. 660, 105 N. E. 228 (1914); State v. Redman, 183 Ind. 332, 109 N. E. 181 (1915); State ex rel. Williams v. Ellis, 134 Ind. 307, 112 N. E. 98 (1916); State v. Dearth, 201 Ind. 1, 164 N. E. 489 (1929). State ex rel. Youngblood v. Warrick Circuit Court, 208 Ind. 504, 186 N. E. 244 (1925); State ex rel. Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1909 (1927). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁵ Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Acts 1815-26, ch. 44, sec. 3. Rev. L. 1811, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act), sec. 4. Rev. Stat. 1843, ch. 58, sec. 6; ch. 75, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-704; Baldwin 7361. Rev. Stat. 1882; Burns 49-402, 49-404, 49-406, 49-407, Baldwin 13101, 13107, 13106, 13107. State ex rel. Cramer v. Schortemeier, 147 Ind. 507, 151 N. E. 407 (1929). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁶ Rev. Stat. 1882, Acts 1865, 1925, Burns 49-601; Baldwin 13103. Acts 1903, 1937, Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1932; Burns 49-2692, 49-2695, Baldwin 7544, 17550.

of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.¹⁷ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁸ Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.¹⁹

From the organization of Wells County in 1837²⁰ until 1843 a prosecuting attorney for the judicial circuit was appointed for a 2-year term by joint ballot of the Senate and House of Representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years.²¹

FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.²² He acts as attorney for the State in criminal cases under the State laws and as attorney for the State and county in certain civil cases.²³

¹⁷ 1 Rev. Stat. 1837; Burns 49-502; Baldwin 13109. *Stout v. State*, 93 Ind. 150 (1884).

¹⁸ 1 Rev. Stat. 1832; Burns 49-502; Baldwin 13110. Acts 1903; Burns 49-2602; Baldwin 7448.

¹⁹ Rev. L. 1821, ch. 24, sec. 12. Acts 1835, ch. 17, sec. 8. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Rev. Stat. 1843, ch. 58, sec. 8. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 107 Ind. 401, 14 N. E. 52 (1926). *State ex rel. Williams v. Ellis*, 134 Ind. 307, 112 N. E. 93 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁰ Wells Organization Acts. Acts 1831-35 (general), ch. 25, sec. 1. Acts 1836-37 (general), ch. 6, sec. 1.

²¹ Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. Acts 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. Acts 1816-17, ch. 3, sec. 2, ch. 26, sec. 1. Rev. L. 1824, ch. 24, secs. 9, 10. Acts 1825-26, ch. 44, sec. 1. Acts 1826-27, ch. 17, sec. 1. Rev. L. 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Acts 1842-43 (general), ch. 15, sec. 1. Rev. Stat. 1843, ch. 4, sec. 78; ch. 58, sec. 1, ch. 59, sec. 21; ch. 73, sec. 1. Acts 1846-47 (general), ch. 13, sec. 1. Acts 1850-51 (general), ch. 172, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 546.

²² *State ex rel. Freed v. Marion Circuit Court*, 214 Ind. 15, 14 N. E. (2d) 910 (1938). *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²³ *Ibid.* Acts 1817-18 (general), ch. 4, sec. 2, ch. 48, sec. 4. Rev. L. 1824, ch. 24, sec. 10. Acts 1825-26, ch. 44, sec. 2. Acts 1829-30, ch. 9, sec. 4. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 13, sec. 230, ch. 37, sec. 161; ch. 73, sec. 4. Acts 1851-52, ch. 8, secs. 1, 2, 4. Acts 1903, Burns 49-2605; Baldwin 44, 7450. Acts 1904, Burns 49-2409; Baldwin 11745. Acts 1909, Burns, 1941 suppl., 49-2602; Baldwin, 1909 suppl., 2008-9.

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,²⁴ the sheriff,²⁵ or the coroner,²⁶ cooperating with one another and with State and Federal bureaus of law enforcement;²⁷ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁸

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²⁹ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name thereunder. The indictment is also signed by the prosecuting attorney.³⁰ The finding of an indictment must be kept secret until arrest is made.³¹ He cannot be held liable for causing the grand jury to return an indictment, though he

2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504, Baldwin 5156, 5459, 5460. Acts 1932 (Spec. Sess.). Burns 64-1511; Baldwin 15754.

Misconduct of prosecuting attorney at trial. *De Hlority v. State*, 215 Ind. 390, 19 N. E. (2d) 945 (1939).

²⁴ Acts 1822-23, ch. 48, sec. 9. Acts 1905; Burns 9-706; Baldwin 2076. 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁵ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁶ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1911 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁷ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁸ Rev. Stat. 1843, ch. 5, secs. 162, 164. Acts 1905, 1927; Burns 9-806, 9-901, 9-903; Baldwin 2102, 2123, 2131.

²⁹ Acts 1905; Burns 9-826; Baldwin 2122. *Williams v. State*, 188 Ind. 263, 123 N. E. 209 (1919).

³⁰ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 211 Ind. 328, 14 N. E. (2d) 590 (1935).

Endorsement by prosecuting attorney. 2 Rev. Stat. 1852, ch. 1, sec. 17, p. 163 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 227). *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888). *Robinson v. State*, 177 Ind. 267, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

³¹ 2 Rev. Stat. 1852, ch. 1, sec. 71, p. 370 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 46, sec. 103. Acts 1905; Burns 9-907; Baldwin 2130.

acted maliciously and without probable cause.⁸²

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.⁸³ He may also prosecute on affidavit all criminal offenses under the State laws, other than treason and murder (which must be prosecuted on indictment).⁸⁴

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,⁸⁵ including suits to collect taxes and tax penalties⁸⁶ and

⁸² Griffith v. Stinland, 146 Ind. 117, 44 N. E. 1001 (1896).

⁸³ Rev. L. 1824, ch. 24, sec. 10. Acts 1835, ch. 17, sec. 7. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852, Burns 49-2504; Baldwin 5460.

⁸⁴ Rev. St. L. 1843, ch. 58, sec. 2. 2 Rev. Stat. 1852, ch. 1, sec. 749, p. 188 (repealed by Acts 1865 (Spec. Sess.) ch. 27, sec. 1); ch. 1, secs. 19, 23, p. 361 (repealed by Acts 1881 (Spec. Sess.), ch. 16, sec. 32). Acts 1939; Burns, 1941 suppl., 1-3802; Baldwin, 1939 suppl., 2008-2. Acts 1895, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. Robinson v. State, 177 Ind. 263, 97 N. E. 929 (1912). McSwane v. State, 270 Ind. 548, 165 N. E. 319 (1927).

A court cannot compel the prosecuting attorney to approve the affidavit. State ex rel. Freed v. Martin Circuit Court, 214 Ind. 154, 14 N. E. (2d) 903 (1938).

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the Legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." State ex rel. Spencer v. Marion Criminal Court, 274 Ind. 551, 15 N. E. (2d) 1020 (1939).

⁸⁵ Acts 1836-37 (general), ch. 32, sec. 9; ch. 72, sec. 5. Rev. L. 1824, ch. 24, sec. 10. Acts 1825, ch. 47, sec. 25; ch. 69, sec. 2. Rev. L. 1831, ch. 6, sec. 27, ch. 10, sec. 2; ch. 90, secs. 21, 27. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 12, sec. 233, ch. 14, sec. 25; ch. 15, sec. 1029; ch. 48, sec. 84; ch. 58, sec. 2. Acts 1851-52, ch. 8, sec. 4. Acts 1865, Burns 78-311; Baldwin 1927. 2 Rev. Stat. 1852, Burns 49-2501; Baldwin 5160. Board of County Comrs. v. Templar, 34 Ind. 322 (1870).

⁸⁶ Rev. L. 1824, ch. 24, sec. 10. Acts 1835, ch. 47, sec. 2. Acts 1829, ch. 47, sec. 25. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838, ch. 58, sec. 2. Acts 1881 (Spec. Sess.), ch. 9, sec. 22. Acts 1881, ch. 100, sec. 1. Acts 1907, ch. 176, sec. 4 (repealed by Acts 1907, ch. 133, sec. 16). Acts 1911; Burns 6-2445; Baldwin 1573. Acts 1875, 1892; Burns, 1941 suppl., 12-912; Baldwin, 1937 suppl., 3611-41. Acts 1907; Burns, 1941 suppl., 1-3802; Baldwin 1927 suppl., 3611-41. Acts 1909, Burns 1-3802, 61-70, 64-72, 64-73, 61-15, 61-20, 61-205, Baldwin 15576, 15623, 15637, 15-27, 15772, 15773, 15775, 15776. Acts 1881 (Spec. Sess.), Burns 64-1511; Baldwin 15754. Acts 1932;

suits against officers or on their bonds.³⁷

The prosecuting attorney prosecutes suits on forfeited recognizances,³⁸ suits to recover funds of certain decedents' estates unlawfully retained by an administrator,³⁹ suits against insurance companies,⁴⁰ surety companies,⁴¹ and railroad companies to recover statutory penalties,⁴² suits to recover gambling losses,⁴³ injunction suits to prevent violation of laws concerning horse racing,⁴⁴ tenement houses,⁴⁵ houses of ill fame,⁴⁶ and restraint of trade,⁴⁷ and injunction suits to prevent persons from engaging in trades and professions without licenses⁴⁸ or from engaging in business while delinquent in payment of gross income taxes.⁴⁹

Burns 64-921; Baldwin 15919. Acts 1933, 1937; Burns, 1941 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. Board of County Comrs. v. Templar, 34 Ind. 322 (1870); La Plante v. State ex rel. Goodman, 152 Ind. 80, 52 N. E. 452 (1899).

³⁷ Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19-22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 22, sec. 6, ch. 23, sec. 8, ch. 24, secs. 9, 10; ch. 30, secs. 1-3; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4; ch. 68, sec. 2. Acts 1827-28, ch. 23, sec. 3; ch. 88, sec. 6. Rev. L. 1831, ch. 10, sec. 2; ch. 81, sec. 46; ch. 90, sec. 6. Acts 1834-35 (general), ch. 13. Rev. Stat. 1833, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2509; Baldwin 15856, 15857. Wood v. State ex rel. Canady, 125 Ind. 219, 25 N. E. 190 (1890); Wood v. Board of County Comrs., 125 Ind. 270, 25 N. E. 188 (1890).

³⁸ Acts 1816-17, ch. 5, sec. 1. Acts 1817-18 (general), ch. 4, sec. 1. Rev. L. 1824, ch. 57, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. State v. Schloss, 92 Ind. 293 (1883).

³⁹ Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

⁴⁰ Acts 1899, Burns 39-212; Baldwin 9710. Acts 1933; Burns 39-1117; Baldwin 9823. Acts 1893; Burns 39-2618; Baldwin 9888.

⁴¹ Acts 1929; Burns 25-253; Baldwin 4957. Acts 1901; Burns 25-1218; Baldwin 9918.

⁴² Acts 1873; Burns 49-1918; Baldwin 15094. Acts 1895; Burns 55-620; Baldwin 14119. Acts 1911; Burns 55-917; Baldwin 14159. Acts 1907; Burns 55-924; Baldwin 14193.

⁴³ 1 Rev. Stat. 1852; Burns 10-2223; Baldwin 2806. Ervin v. State ex rel. Walley, 150 Ind. 332, 48 N. E. 219 (1897).

⁴⁴ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴⁵ Acts 1913; Burns 20-579; Baldwin 9363.

⁴⁶ Acts 1915; Burns 9-2702; Baldwin 2586.

⁴⁷ Acts 1807; Burns 23-120; Baldwin 4786.

⁴⁸ Dentists. Acts 1913, Burns 63-513; Baldwin 5688.

Physicians and surgeons. Acts 1857; Burns 63-111; Baldwin 10712.

⁴⁹ Acts 1933, 1937; Burns, 1941 suppl., 64-2613(c); Baldwin, 1937 suppl., 15993(c)

He acts for the State when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the State.⁵⁰ He prosecutes bastardy proceedings,⁵¹ quo warranto proceedings,⁵² and cases of surety of the peace.⁵³ He resists undefended divorce suits⁵⁴ and applications for change of names of persons; and protects the interests of all persons of unsound mind.⁵⁵ In lunacy proceedings he represents the person alleged to be insane.⁵⁶ He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.⁵⁷ He appears in guardianship proceedings for aged persons, spendthrifts,⁵⁸ and habitual drunkards.⁵⁹ Formerly he prosecuted suits to recover the costs of cutting hedge fences when the work was done at county expense.⁶⁰

On appeals from certain examination boards in license matters he represents the boards.⁶¹ On appeals from orders of the chief inspector of the State Industrial Board, the

⁵⁰ Acts 1905; Burns 9-1045; Baldwin 2178.

⁵¹ 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁵² Acts 1819-20, ch. 74, sec. 3. Rev. L. 1831, ch. 62, sec. 3. Rev. Stat. 1813, ch. 48, sec. 45, 58. 2 Rev. Stat. 1852, ch. 1, sec. 749, 750, pp. 198, 199. Acts 1881 (Spec. Sess.), 1929; Burns 3-401, 3-2002; Baldwin 1045, 1046. 1 Rev. Stat. 1852; Burns 39-134; Baldwin 5611. Acts 1897; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

⁵³ Acts 1905; Burns 9-511; Baldwin 2079. Davis v. State, 38 Ind. 11, 37 N. E. 397 (1894).

⁵⁴ Acts 1817-18 (general), ch. 35, sec. 3. Rev. L. 1821, ch. 31, sec. 9. Rev. Stat. 1838, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. State v. Brinneman, 120 Ind. 357, 22 N. E. 332 (1888); Scott v. Scott, 17 Ind. 309 (1861).

⁵⁵ Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5460. Martin v. Matsinger, 130 Ind. 555, 30 N. E. 523 (1891).

⁵⁶ 2 Rev. Stat. 1852, Acts 1855; Burns 8-202; Baldwin 3460. Chase v. Chase, 163 Ind. 178, 71 N. E. 435 (1904). Martin v. Matsinger, 130 Ind. 555, 30 N. E. 523 (1891).

⁵⁷ Acts 1909; Burns, 1941 suppl., 23-5116, 29-5417; Baldwin, 1939 suppl., 11078-88b, 11078-89.

⁵⁸ Acts 1911; Burns 8-301; Baldwin 2472. Acts 1919; Burns 8-302; Baldwin 2473.

⁵⁹ Acts 1867; Burns 8-401; Baldwin 2476.

⁶⁰ Acts 1891, ch. 39, sec. 3. Acts 1895, ch. 33, sec. 3. This duty was abolished by Acts 1921, ch. 244, sec. 2.

⁶¹ State Board of Medical Registration and Examination. Acts 1897, 1899, 1901; Burns 63-1206; Baldwin 10707.

State Board of Dental Examiners. Acts 1913; Burns 63-520; Baldwin 5605.

Indiana Board of Pharmacy. Acts 1911; Burns 63-1120; Baldwin 1262.

State Veterinary Examining Board. Acts 1902; Burns 63-1705; Baldwin 46.

State Board of Barber Examiners. Acts 1913; Burns 63-315; Baldwin 4070.

Miners' Examination Board. Acts 1923; Burns 46-1008; Baldwin 11073.

prosecuting attorney appears as counsel for the State to sustain and defend such orders.⁶² He assists the Indiana Attorney General, on his request, in representing the Indiana Public Service Commission in any suit to which that commission is a party, if any hearing or trial of such suit will be held in the county.⁶³

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the State laws.⁶⁴

The prosecuting attorney administers oaths⁶⁵ and performs the duties of notaries public.⁶⁶ He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁶⁷

The State Board of Accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁶⁸

XIV. DISTRICT ATTORNEY (1853-73)

LEGAL STATUS

From 1853 until 1873 Wells County had a district attorney¹ who was elected biennially by the voters of the judicial

⁶² Acts 1869; Burns 40-1019; Baldwin 16084.

⁶³ Acts 1913; Burns 54-106; Baldwin 13999. Acts 1917; Burns 60-28; Baldwin 13679.

⁶⁴ Acts 1911, 1913, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

⁶⁵ Acts 1901; Burns 49-2506; Baldwin 5462. *Lenciania v. State*, 200 Ind. 528, 164 N. E. 271 (1920).

⁶⁶ Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

⁶⁷ Rev. L. 1824, ch. 24, sec. 13; ch. 86, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Rev. L. 1831, ch. 90, sec. 27. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1931; Burns 6-2436; Baldwin 15974. Acts 1905; Burns 9-706; Baldwin 2076. Acts 1909; Burns 25-273; Baldwin 4957. Acts 1919; Burns 49-2505, 64-608, 64-719, 64-723, 64-1519, 64-2408; Baldwin 5451, 15466, 15613, 15617, 15773, 13-27. Acts 1873 (Spec. Sess.), Burns 49-2511; Baldwin-5468. Acts 1933, 1937; Burns, 1941 suppl., 49-2601; Baldwin, 1937 suppl. 7547. Acts 1935; Burns 49-2695; Baldwin 7550. Acts 1917; Burns 60-217; Baldwin 13678. Op. Atty Gen. 1928, p. 238.

⁶⁸ Acts 1909; Burns 60-202; Baldwin 12655. Information obtained from E. P. Brennan State Examiner, on May 18, 1919, by W. Davis Hamilton.

¹ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. Acts 1873, ch. 29, sec. 79.

district of the court of common pleas.² The district was composed of the counties of Huntington and Wells from 1853 until August 6, 1859 and the counties of Allen, Adams, Huntington, and Wells after August 6, 1859.³ He was required to post bond in the amount of \$5,000, to be approved by the judge of the court of common pleas and filed in the office of the clerk of the circuit court.⁴

FUNCTIONS AND RECORDS

The duties of the district attorney were similar to those of the prosecuting attorney, except that they extended only to the court of common pleas and the justice of the peace courts in the counties forming the judicial district of the court of common pleas. He prosecuted the pleas of the State in the court of common pleas and justice of the peace courts of such districts;⁵ conducted all prosecutions for felonies or misdemeanors; conducted all suits on forfeited recognizances; resisted applications for changing names; superintended civil suits in which the county or its trust funds were interested or involved; and protected the interest of all persons of unsound mind.⁶

The office of district attorney was abolished in 1873 when the court of common pleas was abolished.⁷

No records of the district attorney were found in Wells County.

XV. COUNTY ASSESSOR

LEGAL STATUS

The office of county assessor has existed in Wells County ever since 1891 under the requirements of acts of 1891 and 1919. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not

² Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385

³ 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1.

⁴ Acts 1851-52 (Spec. Sess.): ch. 8, sec. 2. 2 Rev. Stat. 1852, ch. 3, sec. 2, p. 385.

⁵ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385. State v. Sweetser, 14 Ind. 292 (1860).

⁶ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 4. 2 Rev. Stat. 1852, ch. 3, sec. 4, p. 386

⁷ Acts 1873, ch. 29, sec. 79.

commissioned by the Governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof during the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.¹ The assessor must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.²

The assessor receives a regular salary of \$1,040 per year, plus \$2.50 for each day spent in conference with the State Board of Tax Commissioners, together with actual railroad fare to and from the place of holding such conferences.³ For his services as appraiser of decedent's estates, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.⁴ He is entitled to reimbursement for expenses when temporarily working outside Wells County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.⁸ For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the State Board of Tax Commissioners after a hearing by that board. On ap-

¹ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

² Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

³ Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

⁴ Acts 1931, 1933, 1939; Burns, 1941 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

peal to the circuit court he may have a trial de novo on the charges sustained by the State board.⁹

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁰

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the organization of Wells County in 1837¹³ until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under acts of 1824 and 1831 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February

⁹ Acts 1881 (Spec. Sess.), Burns 4303; Baldwin 1297. Acts 1919, 1921, Burns 64-1101, Baldwin 15696.

¹⁰ Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.), Burns 49-701; Baldwin 7081. 1 Rev. Stat. 1852, Burns 49-405, 49-408, 49-413, Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright*, 81 Ind. 429 (1869). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹¹ 1 Rev. Stat. 1852; Burns 49-101; Baldwin 1051. Acts 1919; Burns 64-1102, Baldwin 15698.

¹² Acts 1863, Burns 49-1011, Baldwin 7541.

¹³ Wells Organization Acts. Acts 1824-25 (general), ch. 26, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

¹⁴ Acts 1867, ch. 51, sec. 11; ch. 93, sec. 1. Acts 1811, ch. 37, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. L. 1824, ch. 15, sec. 7, ch. 86, secs. 5-7. Rev. L. 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

¹⁵ Rev. L. 1824, ch. 86, sec. 29. Rev. L. 1831, ch. 81, sec. 4.

10, 1841 provided for the election of a county assessor in each county for a 2-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.¹⁷ From 1841 to 1872 real property was valued by appraisers appointed, from time to time as needed, by the board of commissioners.¹⁸ The elective office of county assessor (2-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.²⁰ An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for reelection until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.²¹ The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Harrison), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the office of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive lists of registrations of motor vehicles and trailers from the State Motor Vehicle Commissioner, and to check, verify,

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

²⁰ Acts 1875, ch. 9, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

and ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the State Board of Tax Commissioners any incompetency or neglect of duty on the part of township assessors;²⁷ and determine the value of taxable intangibles.²⁸ Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.²⁹ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.³⁰ He is a member and president of the county board of review.³¹ His work is under the direction of the State Board of Tax Commissioners.³² Formerly the county assessor made out the assessment rolls (now made by the auditor),³³ took a census of deaf mutes in the county (now done by township assessors),³⁴ and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.³⁵

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.³⁶

The assessor must return to the auditor, on or before the first Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers

²⁷ Acts 1927, 117; Burns, 1941 suppl., 47 124; Baldwin, 1937 suppl., 11143. Acts 1919, Burns 64-1102; Baldwin 1908. Acts 1919, 127; Burns 64-100; Baldwin 1904. *McCannell v. Hampton*, 164 Ind. 347, 13 N. E. 1072 (1905); *Danaher v. Terry*, 141 Ind. 67, 41 N. E. 145 (1905). *Thompson's Annual Conference of State Tax Examiners*, pp. 28, 37-39.

²⁸ Acts 1927, 117; Burns 1941 suppl., 6144; Baldwin, 1937 suppl., 1290. *Thompson's Annual Conference of State Tax Examiners*, pp. 30-31.

²⁹ Acts 1901 (Spec. Sess.), Burns 41-100; Baldwin 1907. Acts 1901, 193, 199; Burns, 1901 suppl., 6 105; Baldwin, 1901 suppl., 100. *Thompson's Annual Conference of State Tax Examiners*, pp. 32-33.

³⁰ Acts 1901, 190, 197, 192; Burns 41-94; Baldwin 1905.

³¹ Acts 1901, 190 (Spec. Sess.), Burns 41-100; Baldwin 1905.

³² Acts 1919, 127; Burns 64-100; Baldwin 1905.

³³ Rev. L. 1901, ch. 35, sec. 2, 3, 7. Acts 1908-9 (general), ch. 19, sec. 14, 15. Rev. Stat. 1901, ch. 12, sec. 28. Acts 1919, Burns 64-100; Baldwin 1904, 1573.

³⁴ Acts 1908-9 (general), ch. 41, sec. 1. Acts 1908-9 (general), ch. 17, sec. 4. Acts 1909, ch. 7, sec. 1, 2. Acts 1901, ch. 90, sec. 34. Acts 1901, Burns 41-97; Baldwin 1905.

³⁵ Acts 1901-2 (general), ch. 17, sec. 2, 3.

³⁶ Acts 1901, 190 (Spec. Sess.), Burns 41-101, 64-100; Baldwin 1905, 1764. Acts 1919, 127; Burns 64-100; Baldwin 1905. The necessity of the appeal was suggested by Philip Zwierzy, chairman of the State Board of Tax Commissioners.

received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made thereto.⁸³ He is not required to keep any records permanently.⁸⁴

246. [ASSESSORS' REPORTS], 1934-. 1 f. d.

Assessors' reports, consisting of:

- i. County assessor's bimonthly reports to State Board of Tax Commissioners of personal property assessments, showing date of report, names of taxing unit and assessor, itemized and classified statement of property and valuation of each assessment, total and average valuation of each class of property, total number and valuation of all assessments, and average valuation.

- ii. Township assessors' weekly reports to county assessor of personal property assessments, showing information as in paragraph i.

Arr. chron. by date of report. No index. Hdw. 9 x 16 x 24. Assr. off.

247. ORDER OF APPOINTMENT OF APPRAISER, 1935-. 1 pigeon-hole.

Court orders appointing county assessor as inheritance tax appraiser, showing date of order, names of estate and appraiser, and cause number. Arr. chron. by date of order. No index. Hdw. 5 x 5 x 11. Assr. off.

248. ESTATES, 1938-. 1 f. d.

Reports of appraisals of estates for inheritance tax purposes, showing cause number; dates of report, decedent's death, notice to persons known to have claim or interest in estate, State Board of Tax Commissioners, county treasurer, and filing; name of decedent; names and addresses of executor or administrator, attorney for estate, appraiser, and heirs or legatees; relationship of heirs or legatees to decedent; itemized description; par or face value, and fair market value of personal property; location and description of real estate; number of acres; last assessed valuation and fair market value; and total value of estate. Arr. chron. by date of filing. No index. Typed. 11 x 13 x 26. Assr. off.

249. INTANGIBLES, 1939-. 1 f. d.

Applications for determining the valuation of taxable intangibles, showing date of application; name of applicant;

⁸³ Acts 1919; Burns 64 1102; Baldwin 15608

⁸⁴ Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

schedule of intangibles; amount of face value; value by applicant, county assessor and State Board of Tax Commissioners; and computation of tax. Arr. chron. by date of application. No index. Hdw. 11 x 13 x 26. Assr. off.

250. UNCANCELLED MORTGAGE RECORD, 1881-1923. 2 vols. (1, 2).

Record of unpaid mortgages, showing date and amount of mortgage, names of mortgagor and mortgagee, and volume and page-reference, entry 100. Arr. alph. by name of mortgagee. No index. Hdw. 450 pp. 17 x 13 x 2 $\frac{1}{2}$. Attic strg. room.

251. [PETITIONS FOR REAPPRAISEMENT], 1938-. 1 f. d.

Original petitions of real estate owners for reappraisal, showing date of petition and action of State Board of Tax Commissioners, name and address of owner, names of adjoining real estate owners, location and description of petitioner's property, assessed valuations of petitioner's and adjoining properties, petitioner's estimated value of his property, and amount of reappraisal. Arr. chron. by date of petition. No index. Hdw. and typed. 11 x 13 x 26. Assr. off.

XVI. COUNTY BOARD OF REVIEW

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of review has existed in Wells County ever since 1891 under the requirements of acts of 1891,¹ 1895,² and 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.³ An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, and must reside within the county after his appointment.⁴ Every member must take an oath that he will support the State and Federal Constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true

¹ Acts 1891, ch. 99, sec. 114.

² Acts 1895, ch. 36, sec. 2.

³ Acts 1919, 1920 (Spec. Sess.), Burns 61-1201, Baldwin 15700.

⁴ Const. 1891, art. 6, sec. 4, 6.

cash value of such property.⁵ The assessor and auditor are respectively the president and secretary of the county board of review.⁶

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁷

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁸ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁹ The judge of the circuit court fills vacancies as to members appointed by him.¹⁰ Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.¹¹

Before 1919 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of Wells County in 1837¹² through 1838, clerk of the circuit court and assessors or listers;¹³ 1839 through 1840, board of commissioners,

⁵ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

⁸ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹¹ See the essays entitled "Auditor," "County Assessor," and "Treasurer."

¹² Wells Organization Acts. Acts 1831-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

¹³ Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8.

clerk of the circuit court, and assessors or listers;¹⁴ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);¹⁵ 1842 through 1852, board of equalization, consisting of the board of commissioners, county assessor, and auditor;¹⁶ 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors for personal property,¹⁷ and composed of the board of commissioners, auditor, and appraiser or appraisers for real estate;¹⁸ 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;¹⁹ and 1881 through 1890, board of equalization, consisting of the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge;²⁰ 1891 through 1894, board of review composed of the county assessor, auditor, and treasurer;²¹ and from 1895 through 1918 board of review composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.²²

FUNCTIONS AND RECORDS

The county board of review hears complaints of taxpayers concerning new assessments (except those made by the State Board of Tax Commissioners), reviews and corrects such assessments, equalizes new property valuations, and assesses omitted property. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to order another assessment by the county assessor and township assessors under instructions

¹⁴ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

¹⁵ *Ibid.* Acts 1840-41 (general), ch. 1, secs. 9, 13.

¹⁶ Acts 1840-41 (general), ch. 1, sec. 13.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 91. Acts 1857, ch. 110, sec. 2.

The Revised Statutes of 1852 became effective on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853).

¹⁸ 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins, 4 Ind. 305 (1853).

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 177, 278.

²⁰ Acts 1881 (Spec. Sess.), ch. 96, sec. 179.

²¹ Acts 1891, ch. 99, sec. 111.

²² Acts 1895, ch. 36, sec. 2.

from the board.²³ The action of the board is subject to review by the State Board of Tax Commissioners.²⁴ On questions of law concerning valuation of property, the decisions of the board of review and of the State Board of Tax Commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.²⁵

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation taxes to be placed on the tax duplicate. This action of the county board is reviewable by the State Board of Tax Commissioners.²⁶

Sworn written statements to obtain tax deductions on mortgaged realty and to obtain tax exemptions of realty and personalty used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the State Board of Tax Commissioners.²⁷

The board of review, after giving 2-weeks' notice, holds an annual meeting beginning on the first Monday of June;²⁸ and the session can last 38 days in any year in which the State Board of Tax Commissioners orders reassessment of any

²³ AGs 1913; Burns 64-1031; Baldwin 15664. AGs 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. *Thirty-ninth Annual Conference of State Tax Board*, pp. 54-57.

²⁴ Acts 1919, 1925; Burns, 1941 suppl., 61-1321; Baldwin, 1935 suppl., 15725. State Board of Tax Commissioners, tax rule 6.

²⁵ Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 13, 1939.

²⁶ AGs 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

²⁷ Acts 1919, 1939; Burns, 1941 suppl., 61-200 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15418-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations, and political subdivisions of the State, nor for property owned and used by churches, State accredited schools, hospitals, and college fraternities and societies. Acts 1937; Burns, 1941 suppl., 64-215; Baldwin, 1937 suppl., 15418-4.

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

real estate in the county, and 28 days in other years. Additional time for completing this board's duties may be allowed by the State Board of Tax Commissioners.²⁹ A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.³⁰ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.³¹

252. COUNTY BOARD OF REVIEW, 1891-. 3 vols. (1, 2; 1 vol. unlabeled).

Minutes of meetings of county board of review, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. and typed. 2 vols., 500 pp., 16 x 12 x 2 $\frac{1}{2}$. 1 vol., 200 pp. 13 x 8 x 1. 1 vol., 1891-1906, attic storeroom; 2 vols., 1907-, aud. off.

XVII. COUNTY BOARD OF TAX ADJUSTMENT

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of tax adjustment has existed in Wells County ever since 1932 under the requirements of an act of 1932,¹ 1933,² and 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Bluffton or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons, who are citizens and freeholders of the county, appointed before April 15 each year by the judge

²⁹ Acts 1919; Burns 64-1205; Baldwin 15704. State Board of Tax Commissioners. Tax Rule 6.

³⁰ Acts 1919, 1920 (Spec. Sess.); Burns 61-1201, Baldwin 15700.

³¹ Acts 1919; Burns 64-1204; Baldwin 15703.

¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

² Acts 1933, ch. 237, sec. 4.

of the circuit court to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year, must reside within the county after his appointment, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.³

The county board of tax adjustment elects a chairman and a vice chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the State Board of Accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.⁴

For sufficient legal grounds any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁷

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 the county's tax levies were reviewable by the county council.⁸ Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the State Board of Tax Commissioners in certain instances.⁹

³ Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁴ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁸ Acts 1920 (Spec. Sess.), ch. 49, sec. 7. Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 22, 1939, by W. Davis Hamilton.

⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.¹⁰

The board of tax adjustment under the act of 1932, referred to in the first paragraph of this essay, was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.¹¹ The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.¹²

FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.¹³ The action of the board of tax adjustment is subject to review by the State Board of Tax Commissioners.¹⁴

The board of tax adjustment meets on the second Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹⁵ The auditor, as clerk, keeps a complete record of the proceedings of the board.¹⁶

¹⁰ Toledo & W. R. Co. v. Lafayette, 22 Ind. 262 (1854); First Nat. Bank v. Greger, 157 Ind. 479, 62 N. E. 21 (1901). Information obtained from Philip Zoercher, chairman of the State Board of Tax Commissioners, on May 22, 1939, by W. Davis Hamilton.

¹¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

¹² Acts 1933, ch. 237, sec. 4.

¹³ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁴ Acts 1937; Burns, 1941 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹⁵ Acts 1937; Burns, 1941 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁶ Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

253. TAX ADJUSTMENT BOARD, 1932-.

Minutes of meetings of county board of tax adjustment, showing date of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by date of meeting. No index. Typed. 400 pp. 17 x 12 x 2. Aud. off.

254. ADJUSTMENT BOARD PAPERS, 1932-. 1 f. b. and 1 f. d. Contains:

- i. Copies of budget estimates of county officials, showing dates of estimate and filing, names of official and office, and itemized statement of funds required.
 - ii. List of names of taxpayers whose personal property assessments have been increased, showing dates of assessment and hearing and names of taxpayer and taxing unit.
 - iii. Minutes of meetings of county board of tax adjustment, showing information as in entry 253.
- No obvious arr. No index. Hdw. and typed. F. b. 11 x 5 x 14; f. d. 12 x 15 x 27. Aud. off.

XVIII. BOARD OF FINANCE

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of finance has existed in Wells County ever since 1907 under the requirements of acts of 1907, 1935, and 1937. Ever since 1907 the board has been composed of the county commissioners of Wells County, with the county auditor serving as secretary.¹

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year.²

¹ Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 4). Acts 1937; Burns, 1911 suppl., 61-629, 6-665; Baldwin, 1937 suppl., 13844-50, 13841-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

² Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 4). Acts 1937; Burns 49-1001, 47-1004; Baldwin 75-1, 75-4. Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. Op. Atty. Gen. 1931, p. 313, 1936, p. 130.

Before 1907 no county officer or board performed duties analogous to those of the board of finance.⁵

FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁶ After inviting proposals from each bank and trust company in the county, the board designates depositories for county funds,⁶ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁶ It may revoke the commission of any depository at any time.⁷ In the name of "The Board of Finance of Wells County," the board may sue and be sued in any action in any court of competent jurisdiction.⁸

The board of finance holds an annual meeting on the third Monday in January, at which it elects its president;⁹ and holds a biennial meeting on the third Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.¹⁰ The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.¹¹

The board keeps as permanent records the depositories' monthly statements of deposits.¹² The auditor, as secretary of the board of finance,¹³ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁴

⁵ Information obtained from E. P. Brennan, State Examiner, on May 31, 1939, by W. Davis Hamilton.

⁶ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. State ex rel Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939). Op. Atty. Gen. 1939, p. 247.

⁶ Acts 1937; Burns, 1941 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁶ Acts 1937; Burns, 1941 suppl., 61-677; Baldwin, 1937 suppl., 1428-1.

⁷ Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

⁸ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

⁹ *Ibid.*

¹⁰ Acts 1937; Burns, 1941 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹¹ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1941 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

¹³ Acts 1937; Burns, 1941 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹⁴ Acts 1937; Burns, 1941 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

255. RECORD COUNTY BOARD OF FINANCE, 1907 . 1 vol. 110. Minutes of meetings of board of finance, showing date of meeting, names of members present, business discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. and typed. 430 pp. 16 x 12 x 2

256. DEPOSITORIES STATEMENTS, 1922-. 1 f. b. Statements by depositories of county funds, showing dates of statements, deposits, and withdrawals; name and address of depository; amounts of deposits, withdrawals, average monthly balance and interest credited and rate of interest. Also contains: New proposals and contracts for county depository. 1922-Dec. 30, 1932. Jan. 4, 1933-, entry 257. No obvious arr. No index. Hdw. and typed. 11 x 5 x 13. Aud. off.

257. NEW PROPOSALS & CONTRACTS FOR COUNTY DEPOSITORY, Dec. 31, 1932-Jan. 3, 1933. 4 f. b. 1922-Dec. 30, 1932, Jan. 4, 1933-in Depository Statements, entry 256.

Contains:

- i. Contracts with depositories of county funds, showing date and conditions of contract and name and address of depositories.
- ii. Proposals by financial institutions to act as depository of county funds, showing date of proposal, name and address of depository, amount of capital stock, and conditions of proposal.

No obvious arr. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

XIX. COUNTY SCHOOL FUND BOARD

EVOLUTION AND STRUCTURAL ORGANIZATION

The county school fund board exists under the mandatory provisions of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.¹ The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof during the preceding year,

¹ Acts 1865, 1905; Burns, 1941 suppl., 23-209; Baldwin, 1905 suppl., 628.

must reside within the county after his appointment,² and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.³

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

For sufficient legal causes any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

From 1829 to 1849 loans from the school funds were made by the county school commissioner. In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.⁹ With appraisals made by the township trustees, the auditor had authority to make loans until 1935.¹⁰ An Act of March 12, 1935 (repealed on March 9, 1937) authorized the auditor, with the approval of the board

² Const. 1851, art. 6, secs. 4, 6.

³ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852, Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, see the essay entitled "Auditor" and "Clerk of the Circuit Court."

⁴ 1 Rev. Stat. 1857, ch. 98, sec. 69. Acts 1863, ch. 106, sec. 5. Acts 1885, 19-5; Burns, 1941 suppl., 28-20; Baldwin, 1935 suppl., 6558.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-203; Baldwin 1-97. Acts 1897, 18-1; Burns 49-821 to 49-831, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-67; Baldwin, 17052. *McComas v. Krug*, 81 Ind. 327 (intoxication) (1879).

⁶ Acts 1897, 18-99; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 19-3; Burns, 1941 suppl., 28-200; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ See the essay entitled "County School Commissioner (1829-49)."

¹⁰ 1 Rev. Stat. 1862, ch. 98, secs. 34, 75. Acts 1900, ch. 1, sec. 75.

of commissioners, to employ an "administrator of the school fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.¹¹

FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans therefrom are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board.¹²

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and an abstract of title; must make an affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate of the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.¹³

Not more than \$4,000 can be loaned to any one person or company,¹⁴ and the amount loaned cannot exceed one-half the last assessed valuation of the property for taxes.¹⁵

¹¹ Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

¹² Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-105; Baldwin 6499, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower, 159 Ind. 139, 64 N. E. 614 (1902)

The sources of the funds held in trust for school purposes and the distribution of the interest thereon are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

¹³ Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 28-213; Baldwin 6562, 6559, 6560.

¹⁴ Acts 1901; Burns 28-220; Baldwin 6564.

¹⁵ Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

The interest rate on such loans (except those made to the county) is 5 percent per annum.¹⁶ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,¹⁷ and the rate of interest thereon is 6 percent per annum.¹⁸ No loan can be made for a term longer than 5 years. At the end of any year before default, the borrower may pay an amount not less than 10 percent of the original principal of the loan.¹⁹ Expenses of appraisers, abstract of title, and recording the mortgage are paid by the borrower except when the county pays such expenses upon order of the board of commissioners.²⁰ In making such loans preference must be given to the residents of the county.²¹ Loans may be made to corporations or individuals.²²

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional township school fund, and, if the latter, the particular township or townships whose trust funds are loaned.²³ The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.²⁴ Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.²⁵ The auditor may accept, at face value, bonds of the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans when presented by said corporations or their agents.²⁶ Default in payment of interest when due causes the principal of the loan to become due and payable.²⁷ Borrowers from the school funds may have their mortgages renewed at the

¹⁶ Acts 1933; Burns 28-215; Baldwin 6574.

¹⁷ Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

¹⁸ Acts 1901; Burns, 28-204; Baldwin 6571.

¹⁹ Acts 1901; Burns 28-223; Baldwin 6567. Acts 1913; Burns 28-258; Baldwin 6610.

²⁰ Acts 1905; Burns 28-227; Baldwin 6619.

²¹ Acts 1865, 1865; Burns 28-214; Baldwin 6561.

²² Op. Atty. Gen. 1938, p. 104.

²³ Acts 1865; Burns 28-210 to 28-232; Baldwin 6587 to 6589.

²⁴ Acts 1865; Burns 28-233; Baldwin 6583.

²⁵ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²⁶ Acts 1925; Burns, 1941 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

²⁷ Acts 1865; Burns 28-211; Baldwin 6565.

and of 5 years by giving notice to the auditor. Their property must be reappraised before such renewal.²⁸ The auditor forecloses or otherwise enforces the defaulted mortgages.²⁹ Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.³⁰

Whenever more than \$5,000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the Auditor of State, and the unloaned moneys may be transferred to another county.³¹

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the State Superintendent of Public Instruction and the Auditor of State.³² Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional township a sufficient number of mortgages to cover the principal of its Congressional township school fund.³³ A "miscellaneous school fund account" with the Congressional township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.³⁴

²⁸ Acts 1913; Burns 28-258; Baldwin 6610.

²⁹ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1835, ch. 26, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1903; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6694. Webb v. Moore, 24 Ind. 5 (1867); Key v. Ostrander, 23 Ind. 1 (1867); Bonnell v. Ray, 71 Ind. 141 (1880); Willson v. Brown, 82 Ind. 471 (1882); Benefiel v. Aughe, 93 Ind. 401 (1884); Shannon v. Hay, 106 Ind. 589, 7 N. E. 376 (1886); Windstandley v. Crim, 117 Ind. 328, 20 N. E. 813 (1889); Haynes v. Cox, 118 Ind. 184, 20 N. E. 758 (1889); Work v. State ex rel. Holland, 140 Ind. 119, 22 N. E. 127 (1888); State ex rel. Longfellow v. Wimer, 166 Ind. 500, 77 N. E. 1078 (1906).

³⁰ Acts 1869; Burns 28-250 to 28-256; Baldwin 6602 to 6608. Board of County Comrs. v. State ex rel. Michener, 120 Ind. 442, 22 N. E. 359 (1889); Board of County Comrs. v. State ex rel. Michener, 122 Ind. 323, 24 N. E. 747 (1890); State ex rel. Michener v. Board of County Comrs. 5 Ind. App. 220, 32 N. E. 92 (1891).

³¹ Acts 1907; Burns 28-206; Baldwin 6573.

³² Acts 1856, ch. 26, secs. 88, 95; Acts 1865; Burns 28-239 to 28-262; Baldwin 6611 to 6614.

³³ Acts 1865; Burns 28-263; Baldwin 6615.

³⁴ Acts 1879; Burns 28-261 to 28-266; Baldwin 6616 to 6618.

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.³⁵ The record entries for loans to counties are similar to those made for loans to private individuals.³⁶ Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.³⁷

For records of the school fund board, see entries 282-291.

XX. TREASURER

LEGAL STATUS

The office of treasurer has existed in Wells County ever since 1837 under the requirements of acts of 1831, 1838, 1841, 1843, and the Constitution of 1851. The treasurer is elected for a 2-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 4 years in any 6 year period.⁴

The treasurer must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ and must not practice law.⁷

He must post an official bond covering his duties as

³⁵ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

³⁶ Acts 1901; Burns 28-201 to 28-206, Baldwin 6568 to 6573.

³⁷ Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208, Baldwin 6556, 6557. Board of County Comrs. v. Leslie, 63 Ind. 492 (1876)

¹ Const. 1851, art. 6, sec. 2. Gemmer v. State ex rel. Stephens, 163 Ind. 150, 71 N. E. 478 (1904). See footnotes 21-26 herein.

² Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

⁷ Acts 1865, ch. 42 (misnumbered 63), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State, 27 Ind. 491 (1867).

county treasurer, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands as county treasurer at any time during his term, as determined by the board.⁸ The treasurer must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹

The treasurer receives a regular salary of \$1,760 per year. In addition to this salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection of delinquent taxes resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of Wells County.¹⁰

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If the treasurer is convicted of a felony, the judgment of conviction must declare his office vacant.¹² If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,¹³ but such

⁸ Rev. L. 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey*, 22 Ind. 399 (1864).

⁹ Const. 1851, art. 15, sec. 4. Rev. L. 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Rev. L. 1831, ch. 21, sec. 5; ch. 81, sec. 4. Rev. Stat. 1838, ch. 22, sec. 5. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1941 suppl., 49-1006; Baldwin, 1937 suppl., 7546. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles*, 154 Ind. 670, 74 N. E. 508 (1905). *Op. Atty. Gen.* 1934, p. 313; 1936, p. 130.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13030, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-874; Baldwin 13050.

¹³ Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1838, ch. 22, sec. 6. Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

removal is subject to review by the circuit court.¹⁴

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take an oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The treasurer may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes the salaries, which must be not less than \$75 nor more than \$125 per month.¹⁶ The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.¹⁷ The treasurer may require the deputy to give bond.¹⁸ The deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.¹⁹ The treasurer may remove such deputy and assistants at any time, and is responsible for their official acts.²⁰

From the organization of Wells County in 1837²¹ until 1841 a county treasurer was annually appointed by the board doing county business.²² He received and disbursed county funds; received taxes collected by the tax collector; collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate

¹⁴ 1 Rev. Stat. 1812; Burns 29-9-1; Baldwin 5077.

¹⁵ Const. 1851, art. 6, sec. 3. Rev. L. 1841, ch. 21, sec. 6. Rev. Stat. 1842, ch. 4, sec. 136, 139, 140, 162, 167, 168, 169, ch. 7, sec. 74, 77. Rev. Stat. 1847, ch. 7, sec. 74. Acts 1851 (Spec. Sess.) Burns 29-7-1, Baldwin 781. 1 Rev. Stat. 1872, Burns 49-402, 49-408, 49-409; Baldwin 13104, 13166-13170. *Douglas v. State ex rel Wright*, 71 Ind. 129 (1872). *Pealy v. State ex rel Gray*, 49 Ind. 41 (1874). *Weaver v. State ex rel Smith*, 121 Ind. 419, 51 N. E. 10 (1899). Information obtained from Cass S. K. Jackson, Attorney General of Indiana, on August 23, 1878, by W. Davis Hamilton.

¹⁶ Rev. L. 1841, ch. 81, sec. 17, 37. Rev. Stat. 1847, ch. 12, sec. 133. 1 Rev. Stat. 1872, Acts 1853, 1859, 1877, Burns 1441 suppl., 49-1002, Baldwin 1307 suppl., 71-2. Op. Atty. Gen. p. 224, p. 224.

¹⁷ Acts 1879, 1877, Burns 1441 suppl., 49-1002, 49-1003, 49-1004, 49-1005.

¹⁸ 1 Rev. Stat. 1872, Acts 1853, 1859, Burns 49-403, 49-404, 49-405.

¹⁹ Rev. Stat. 1847, ch. 4, sec. 133. 1 Rev. Stat. 1872, Burns 49-403, Baldwin 13100. *Lucas v. Shepard*, 18 Ind. 58 (1843).

²⁰ Rev. Stat. 1847, ch. 7, sec. 74, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

²¹ Wells Organization Acts. Acts 1837 (General), 18-75, 1837, 2. Acts 1838 (General), ch. 6, sec. 1.

²² Rev. L. 1841, ch. 21, sec. 1. Rev. Stat. 1842, ch. 22, sec. 1.

account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.²³ From 1837 to 1841 a county tax collector was appointed annually by the board.²⁴ The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and State Treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons over the age of 21 years residing in the county.²⁵ In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term by the voters of the county.²⁶

FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant to the holder thereof out of funds in his office after requiring the payee and holder to endorse the same, in which case he must deposit the warrant in the depository in lieu of the cash paid out to the holder; or he may require the holder to present the warrant

²³ Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 69, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1; ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. L. 1824, ch. 23, secs. 1-10; ch. 66, secs. 24, 25, 32, 36, 37. Acts 1826-27, ch. 72, sec. 6. Acts 1827-28, ch. 63, sec. 3. Rev. L. 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22; ch. 41, sec. 8; ch. 105, secs. 1-6.

²⁴ Rev. L. 1824, ch. 66, secs. 18, 42. Rev. L. 1831, ch. 81, secs. 17, 18.

²⁵ Rev. L. 1824, ch. 23, secs. 6, 8, 11, 13; ch. 66, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. L. 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-1, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 21, secs. 18, 19.

²⁶ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-160. *Ham v. State ex rel. Williams*, 7 Blackford 344 (1844).

to the depository for payment.²⁷ He must deduct any delinquent taxes owing by the payee.²⁸ If no funds are available to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment. When funds become available he publishes a call for redemption of such warrants.²⁹

The treasurer collects property taxes and poll taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;³⁰ reports omitted polls and property to the auditor for assessment;³¹ keeps an "insolvent record" of dropped taxes (prepared by the auditor);³² keeps auditor's certificates correcting the tax duplicate;³³ sells real estate and personal property at public auction for delinquent taxes;³⁴ collects corporate taxes,³⁵ inheritance taxes,³⁶ and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;³⁷ sells intangible tax stamps for the State Board of Tax Commissioners;³⁸ and collects school fund loans³⁹ and special assessments for

²⁷ Rev. L. 1824, ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, secs. 1, 2. Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5386. ²⁸ Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. ¹ Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1941 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. State ex rel. Zable v. Benson, 70 Ind. 481 (1880).

Estrays and driftage. Rev. Stat. 1838, ch. 37, secs. 1-19.

²⁸ Acts 1919; Burns 64-1506; Baldwin 15768.

²⁹ Acts 1822-23, ch. 36, secs. 3, 5. Acts 1839; Burns 49-3007, 49-3008; Baldwin 5420, 5421. ¹ Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³⁰ Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884).

³¹ Acts 1919; Burns 64-2102; Baldwin 15803.

³² Acts 1919; Burns 64-2801; Baldwin 15684.

³³ Acts 1919, 1925; Burns 64-1407; Baldwin 15741.

³⁴ Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.), Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1941 suppl., 61-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks, 56 Ind. 554 (1877).

³⁵ Acts 1919, Burns 64-1801; Baldwin 15783.

³⁶ Acts 1931; Burns 6-2413; Baldwin 15951.

³⁷ Acts 1933; Burns 64-804, 64-807, 64-810, 64-827; Baldwin 15585, 15588, 15591, 15608.

³⁸ Acts 1933; Burns 64-927; Baldwin 15925.

³⁹ Acts 1865; Burns 28-235, Baldwin 6592.

public improvements;⁴⁰ and collects certain military fines and pays the same to the Adjutant General of the State.⁴¹ Records of these funds and transactions are kept by him.

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the county board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds in the county treasury at the end of the previous month—consistent with the depository statements furnished to the board and treasurer;⁴² makes annual reports to the board of commissioners concerning school funds;⁴³ makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;⁴⁴ makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;⁴⁵ makes annual settlements with the board of commissioners in January;⁴⁶ makes semiannual settlements for taxes with the county auditor in May and November,⁴⁷ and in accordance therewith pays to the State Treasurer in June and December all money due for State purposes;⁴⁸ and also makes payments to the State Treasurer at other times in accordance with official requests therefor.⁴⁹ He makes quarterly reports

⁴⁰ Drainage. Acts 1913; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1805; Burns 36-1306; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440; Baldwin 8942, 8943.

⁴¹ Acts 1927; Burns 45-510; Baldwin 10894.

⁴² Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1941 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁴³ Acts 1865; Burns 28-259; Baldwin 6611.

⁴⁴ Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 40-1432; Baldwin 7577. Acts 1895, 1913; Burns 40-1403; Baldwin 7578. Wolfe v. State ex rel Kennard, 90 Ind. 16 (1883).

⁴⁵ Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁶ Rev. L. 1824, ch. 23, sec. 2. Rev. Stat. 1813, ch. 7, sec. 90. Acts 1869; Burns 26-531. Baldwin 5995. 1 Rev. Stat. 1852; Burns 40-2116; Baldwin 1603.

⁴⁷ Rev. Stat. 1843, ch. 12, secs. 68, 151. Acts 1919; Burns 61-2701; Baldwin 15850.

⁴⁸ Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 61-2503, 61-2504; Baldwin 15852, 15853.

⁴⁹ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1941 suppl., 61-625; Baldwin, 1937 suppl., 13844-47.

to the auditor showing specifically the amount of fees collected;⁵⁰ and deposits quarterly with the auditor all redeemed warrants.⁵¹

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁵² He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.⁵³ He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁵⁴

Forms for the following record books have been prescribed for county treasurers by the State Board of Accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.⁵⁵

The county treasurer is a member of the county board of review, which meets annually for the purpose of reviewing property tax valuations, assessing omitted property, and allowing tax exemptions.⁵⁶

RECEIPTS AND DISBURSEMENTS

GENERAL FUNDS

258. DAILY BALANCE BOOK, 1901-2, 1913-. 22 vols.

Record of daily cash and depository balances, showing date of balance; amount of opening and closing balance; nature and amount of receipts, disbursements, deposits, and with drawals; and name of depository. Arr. chron. by date of

⁵⁰ Acts 1895, 1903, 1913; Burns 49-1107; Baldwin 7577.

⁵¹ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114, Baldwin 5561.

⁵² Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

⁵³ Acts 1937; Burns, 1941 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁵⁴ Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-1109; Baldwin 5554.

⁵⁵ Acts 1909, Burns 60-202, Baldwin 13845. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁵⁶ See the essay entitled "County Board of Review."

balance. No index. Hdw. 400 pp. 17 x 12 x 2 $\frac{1}{4}$. 14 vols., 1901-2, 1913-27, attic strg. room; 8 vols., 1928-, treas. rec. room.

259. MONTHLY BALANCE RECORD, 1884-. 13 vols. (4, 5, 6, 6, 7, 8; 7 vols. unlabeled). Title varies: General Ledger and Balance Sheet, 1884-1903, 4 vols.; General Ledger and Allowance Sheet, 1904-12, 2 vols.

Record of monthly balances of county funds, showing date of balance, amounts of receipts and disbursements, names of funds, and current balance or overdraft in each fund. Arr. chron. by date of balance. No index. Hdw. 236 pp. 21 x 20 x 1 $\frac{1}{2}$. 10 vols., 1884-1932, attic strg. room; 3 vols., 1933-, treas. rec. room.

260. TREASURER'S LEDGER OF RECEIPTS AND DISBURSEMENTS, 1925-. 2 vols.

Record of receipts and disbursements of county funds, showing date, nature, and amount of receipt and disbursement; receipt and warrant number; and names of payer, payee, and fund. This is a combination of two records formerly kept separately: Record of receipts, entry 261; and record of disbursements, entry 262. Arr. by name of fund and chron. thereunder by dates of receipt and disbursement. No index. Hdw. 1 vol., 1,000 pp. 18 x 15 x 5; 1 vol., 200 pp. 18 x 15 x 1 $\frac{1}{2}$. Treas. off.

261. RECORD OF RECEIPTS, 1853-90, 1892-95, 1911-24. 15 vols. 1925-in Treasurer's Ledger of Receipts and Disbursements, entry 260.

Record of receipts of county revenue, showing date, nature, number, and amount of receipt; names of payer and fund; and total receipts. Arr. chron. by date of receipt. No index. Hdw. 440 pp. 20 x 15 x 2. Attic strg. room.

262. REGISTER OF DISBURSEMENTS, 1910-24, 5 vols. (1, 2, 1-3). Title varies: Record of Appropriations and Disbursements, 1910-16, 2 vols. 1925-in Treasurer's Ledger of Receipts and Disbursement, entry 260

Record of disbursements of county funds, showing date, number, nature, and amount of warrant; names of payee and fund; and total disbursements. Arr. chron. by date of warrant. No index. Hdw. 475 pp. 16 x 24 x 2. Attic strg. room.

263. REGISTER OF WARRANTS BY DEPOSITORIES, 1925-. 5 vols. (4-8).

Record of warrants drawn on depositories, showing date,

number, and amount of warrant; date redeemed; name of depository; appropriation number; and amounts of deposit and balance. Arr. numer. by warrant no. No index. Hdw. 400 pp. 17 x 14 x 3. 1 vol., 1925-27, attic strg. room; 4 vols., 1928-, treas. off.

264. REGISTER OF WARRANTS REDEEMED, Jan. 5, 1911-Jan. 13, 1913. 1 vol.

Record of warrants redeemed, showing date, number, and amount of warrant; date redeemed; names of payee, fund, and depository. Arr. chron. by date redeemed. No index. 400 pp. 17 x 14 x 3. Attic strg. room.

265. JOURNAL, 1867-1876. 1 vol. (2).

Daily record of receipts and disbursements of county funds, showing date, nature, and amount of receipt and disbursement, and receipt or voucher number. Arr. chron. by dates, of receipt and disbursement. No index. Hdw. 500 pp. 18 x 13 x 2½. Attic strg. room.

266. REGISTER OF RECEIPTS, 1902-13, 1921-. 3 vols.

Stubs of receipts issued for payments other than taxes, showing date, number, nature, and amount of receipt, and names of paver and fund. Also contains: School fund receipts, Jan. 16, 1903-Jan. 23, 1905, 1910-13, 1921-, entry 270. Arr. numer. by receipt no. No index. Hdw. 6 vols., 1902-13, 1921-24. 165 pp. 15 x 11 x 1; 2 vols., 1925-, 1200 pp. 17 x 12 x 6. 6 vols., 1902-13, 1921-24, attic strg. room; 2 vols., 1925-, treas. off.

267. APPLICATION TO PAY, 1923-. 3 f. b.

Application to pay money other than taxes to county, showing date, number, and nature of application to pay, and names of applicant and fund. Arr. numer. by application to pay no. No index. Hdw. 11 x 5 x 14. Treas. rec. room.

268. [REPORTS AND RECEIPTS], 1913-. 1 f. b.

Contains:

- i. Quietuses issued by Auditor of State to treasurer, showing date, number and amount of quietus, and name of fund.
- ii. Quietuses issued by auditors of other counties, showing date, number and amount of quietus, and purpose of quietus.
- iii. Copies of monthly reports of intangible stamps received, sold, and on hand, 1933-, showing dates of report and receiving consignment, inventory at beginning and end of month, and value and number of stamps received and sold for month.

No oblique arr. No index. Hdw. and typed. 11 x 5 x 14. Treas. rec. room.

SCHOOL FUNDS

269. LEDGER SCHOOL FUND, 1853-80. 1 vol.

Record of receipts of school fund loans, showing date, amount, and conditions of loan; name of mortgagor; and date, amount, and nature of receipts. Arr. chron. by date of receipt. No index. Hdw. 500 pp. 16 x 12 x 2½. Attic strg. room.

270. SCHOOL FUND RECEIPTS, 1901-Jan. 15, 1903, Jan. 29, 1905-9. 4 vols. Jan. 16, 1903-Jan. 28, 1905, 1910-13, 1921-in Register of Receipts, entry 266.

Stubs of receipts issued for payments of principal and interest on school fund loans, showing date, number, amount and purpose of receipt, and name of payer. Arr. chron. by date of receipt. No index. Hdw. 16 x 12 x 1. Attic strg. room.

TAXATION

REAL, PERSONAL, AND POLL

271. TAX DUPLICATE [and Delinquent List], 1877-, 165 vols.

Record compiled by auditor of taxes payable and amounts returned delinquent, showing installment dates; names of taxpayer and taxing unit; duplicate number; location, description, and assessed valuation of lands; lots and improvements thereon; value of personal property; number of polls; amounts of special assessments and exemptions; and date and amount of payment. Also contains: Tax duplicate, 1877-, entry 272. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 1877-1908; typed 1909-. 250 pp. 18 x 22 x 2½. 117 vols., 1877-1929, attic strg. room; 48 vols., 1930-. treas. off.

272. TAX DUPLICATE, 1843-76, 24 vols. 1877-in Tax Duplicate [and Delinquent List], entry 271.

Record compiled by auditor of taxes payable, showing information as in entry 271, except date and amount of payment. Arr. by name of taxing units and alph. thereunder by name of taxpayer. No index. Hdw. 250 pp. 18 x 22 x 2½. Attic strg. room.

273. RECORD OF INSOLVENT DISCHARGED TAXES, 1852-71, 1879-83, 1926-. 3 vols.

Record of uncollected poll and personal taxes, showing date of delinquency, nature and amount of taxes uncollectible, names of township and person classified insolvent, and tax duplicate number. Arr. by name of t. and alph. thereunder

by name of person classified insolvent. No index. Hdw. 350 pp. 16 x 12 x 2 $\frac{1}{4}$. 2 vols., 1852-71, 1879-83, attic strg. room; 1 vol., 1926-, treas. off.

274. MORATORIUM TAX DUPLICATE, 1933-. 1 vol.

Record of delinquent tax payments deferred, showing date of moratorium; duplicate number; schedule of payments; names of taxpayer and taxing unit; location and description of property; and amounts of delinquency, interest, and payments. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 150 pp. 18 x 15 x 1 $\frac{1}{4}$. Treas. rec. room.

275. WORK SHEETS, 1935. 14 vols.

Record of delinquent taxes subject to moratorium tax law of 1933, showing date of delinquency; name and address of property owner; amounts of delinquent tax, penalty, and interest; duplicate number; and location and description of property. Arr. by name of taxing unit and alph. thereunder by name of property owner. No index. Hdw. 100 pp. 9 x 12 x 1. Treas. rec. room.

INHERITANCE

276. INHERITANCE TAX CERTIFICATES, 1914-. 2 f. b.

Copies of court orders determining value of estates and amount of inheritance or transfer tax, showing cause number, dates of decedent's death, filing, inventory, appraisal, and payment of tax; names of decedent, administrator or executor, appraiser, heirs or beneficiaries, and attorneys; value of estate; amounts of deductions, appraiser's fee, and expenses, and rate and amount of tax. Arr. chron. by date of court order. No index. Hdw. 11 x 5 x 14. Treas. rec. room.

277. INHERITANCE TAX RECEIPT BOOK, 1914-. 2 vols.

Stubs and carbon copies of receipts issued for inheritance and transfer tax payments, showing dates of receipts and decedent's death, receipt number, names of decedent and payer, and amounts of tax and interest or discount. Arr. numer. by receipt no. No index. Hdw. 350 pp. 10 x 8 x 2 $\frac{1}{4}$. 1 vol., 1914-Mar. 5, 1936, treas. rec. room; 1 vol., May 26, 1936-, treas. off.

278. INHERITANCE TAX REPORTS SENT TO STATE, 1915-.

1 f. b.

Copies of quarterly reports to Auditor of State of inheritance tax collections, showing date of report and period covered, name of estate, date and amount of collection, and amount of appraiser's fee. Arr. chron. by date of report. No index. Typed. 11 x 5 x 14. Treas. rec. room.

PUBLIC IMPROVEMENTS

279. DITCH TAX DUPLICATE, 1876-. 24 vols.

Record of assessments for construction and maintenance of ditches, showing date of assessment; names of ditch and property owner; location and description of property; amounts of assessment, penalty, interest, and delinquency; and date and amount of payment. Arr. by name of ditch and alph. thereunder by name of property owner. No index. Hdw. 19 vols., 1876-1924, attic strg. room; 2 vols., 1917-26, aud. rec. room; 1 vol., 1922-, treas. rec. room; 2 vols., 1927-, treas. off.

280. GRAVEL ROAD DUPLICATE, 1882-1915. 46 vols.

Record of assessments for construction and maintenance of gravel roads, showing date of assessment; duplicate number; names of road, property owner, and taxing unit; location and description of property; amounts of assessment and delinquency; and date and amount of payment. Arr. by name of road and alph. thereunder by name of property owner. No index. Hdw. 125 pp. 17 x 17 x 1. Attic strg. room.

281. REGISTER OF ROAD RECEIPTS, 1887-98, 1900, 1902.
1 vol.

Register of road tax receipts, showing date, number, and amount of receipt and names of taxpayer and township. Arr. chron. by date of receipt. No index. Hdw. 500 pp. 16 x 12 x 2½. Attic strg. room.

COLLECTIONS

282. CASH BOOK FOR TAXES, 1877-Jan. 4, 1898, 1900-.
4 vols.

Daily record of taxes collected, showing date and amount of collection, tax duplicate number, and name of taxpayer. Arr. by name of taxing unit and chron. thereunder by date of collection. No index. Hdw. 550 pp. 17 x 15 x 2½. 32 vols., 1897-Jan. 4, 1898, 1900-30, attic strg. room.

283. TAX RECEIPTS, 1909-. 1230 vols. and 183 bdls.

Duplicates of receipts issued for tax payments, showing date installment due; date and amount of payment; duplicate and receipt numbers; names of taxpayer and taxing unit; location and description of real property; assessed valuation of real and personal property; amounts of assessed valuation, exemption, and tax; and number of polls. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 1909-32; typed 1933-. Vols. 262 pp. 9 x 7 x 1¼. Bdls. 12 x 13 x 1¼. 983 vols., 1909-30, attic strg. room; 247 vols. and 183 bdls., 1931-, treas. rec. room.

284. REGISTER OF DELINQUENT TAXES, 1868-92. 2 vols.

Record of receipts issued for payments of delinquent taxes, showing date, number, nature, and amount of receipt; name of taxpayer; and amounts of tax, penalty, and interest. Arr. chron. by date of receipt. No index. Hdw. 300 pp. 18 x 13 x 2. Attic strg. room.

285. TAX DUPLICATES UNPAID, 1939-. 8 f. b.

Unpaid tax duplicates, showing date installment due, duplicate number, names of property owner and taxing unit, location and description of real property, assessed valuation of real and personal property, amount of assessed valuation exempted, amount of tax, and number of polls. Arr. by name of taxing unit and alph. thereunder by names of property owner. No index. Typed. 4 x 9 x 18. Treas. off.

MISCELLANEOUS RECORDS

286. TREASURER'S REPORTS, 1918-. 1 f. b.

Reports of audits of treasurer's records by field examiners of State Board of Accounts, showing dates of audit and report; names of treasurer, examiners, and funds; condition of accounts; and recommendations of examiners. Arr. chron. by date of report. No index. Typed. 11 x 5 x 14. Treas. off.

XXI. TAX COLLECTOR (1837-41)

LEGAL STATUS

From 1837 until 1841 Wells County had a tax collector who was appointed for a 1-year term by the board of commissioners.¹ He posted bond in the amount of \$5,000, which was approved by the board of commissioners and filed with the clerk of the circuit court.² The law provided that any vacancy in the office of the tax collector was to be filled through appointment by the clerk of the circuit court³ and that the executor, administrator, or legal representative of a deceased

¹ Rev. L. 1824, ch. 86, secs. 18, 42. Acts 1827-28, ch. 64, sec. 1. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 81, secs. 17, 18, 27, 33. See footnote 11 herein.

Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

² Rev. L. 1834, ch. 86, secs. 18, 27. Rev. L. 1831, ch. 81, sec. 17.

³ Rev. L. 1831, ch. 81, sec. 10.

tax collector should collect the taxes which had been charged against the decedent as tax collector.⁴

FUNCTIONS AND RECORDS

The tax collector collected taxes;⁵ conducted tax sales; issued tax sale certificates and tax deeds;⁶ made and delivered to the clerk of the circuit court an alphabetical list of all white male persons of the age of 21 years or over;⁷ prosecuted persons for failure to obtain licenses for public exhibitions; and paid over to the State Treasurer the amount of taxes collected for the State,⁸ and to the county treasurer all funds collected for the county.¹⁰

An act of 1841 abolished the office of county tax collector and transferred the duties thereof to the county treasurer.¹¹

XXII. TRUSTEES OF PUBLIC SEMINARY (1837-53)

EVOLUTION AND STRUCTURAL ORGANIZATION

From 1837 until 1846 Wells County had a trustee of the county seminary, who was appointed by the board of commissioners for a 3-year term.¹ A bonds was posted by the trustees.

⁴ *Ibid.*, ch. 23, sec. 6; ch. 68, secs. 1, 2.

⁵ Rev. L. 1824, ch. 23, secs. 2, 6, 9, 11, 13; ch. 24, secs. 10, 12; ch. 68, secs. 1, 2; ch. 86, secs. 11-16, 32, 41, 42. Acts 1825, ch. 47, secs. 7, 22, 28; ch. 49, sec. 5. Acts 1825-26, ch. 58, sec. 4. Acts 1826-27, ch. 72, secs. 2, 3, 14. Rev. L. 1831, ch. 81, secs. 14, 20, 34; ch. 82, sec. 39.

⁶ Rev. L. 1824, ch. 86, secs. 34-36, 40, 41. Acts 1825, ch. 47, sec. 11. Acts 1825-26, ch. 58, sec. 2. Acts 1827-28, ch. 33, sec. 1; ch. 77, sec. 36. Acts 1828-29, ch. 84, sec. 22. Rev. L. 1831, ch. 81, secs. 22, 24-26, 29-31.

⁷ Acts 1829-30, ch. 9, secs. 4, 5.

⁸ Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10.

⁹ Rev. L. 1824, ch. 86, secs. 19-23, 31, 39. Rev. L. 1831, ch. 81, sec. 39. Acts 1827-28, ch. 59, sec. 2.

¹⁰ Rev. L. 1824, ch. 86, secs. 24, 25, 34, 39.

¹¹ Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

¹ Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, secs. 1, 2. Rev. L. 1831, ch. 90, secs. 1, 11, 12, 25. Acts 1832-33, ch. 46, sec. 1. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, secs. 1, 11. Commissioners' Record, A:15, see entry 2.

² Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, sec. 2. Rev. L. 1831, ch. 90, sec. 2. Rev. Stat. 1838, ch. 21, sec. 25, ch. 98, sec. 12.

FUNCTIONS AND RECORDS

The seminary trustees had custody of all seminary funds; made loans therefrom; charged interest at a rate not less than 6 percent per annum; prosecuted suits to recover money loaned; distributed funds as ordered by the judge of the circuit court; kept a record showing all funds received and disbursed, all loans made, and payments on such loans; and reported annually to the Speaker of the Indiana House of Representatives and to the board of commissioners.³

In 1853 the seminary fund was made a part of the common school fund under control of the county auditor, and the operation of schools was transferred to a township board headed by the township trustee.⁴

XXIII. COUNTY SCHOOL COMMISSIONER (1837-49)

LEGAL STATUS

From 1837 until 1849 Wells County had a county school commissioner elected by the voters of the county for a 3-year term.⁵ He posted bond in the amount of \$10,000.² The law provided that any vacancy should be filled through appointment by the board of commissioners.³

FUNCTIONS AND RECORDS

The county school commissioner was a fiscal agent for

³ Acts 1817-18 (general), ch. 72, sec. 2. Acts 1821-22, ch. 65, sec. 1. Rev. L. 1824, ch. 22, secs. 2, 4, 10, 16. Rev. L. 1831, ch. 90, secs. 7-10, 16. Rev. Stat. 1838, ch. 98, secs. 7, 8, 16, 20, 23. Acts 1841-42 (general), ch. 121, sec. 2. Rev. Stat. 1843, ch. 14, secs. 27, 28, 30, 34, 36. Fassett A. Cotton, *Education in Indiana 1793 to 1934*, pp. 9, 10, 15.

⁴ Const. 1851, art. 8, sec. 2. 1 Rev. Stat. 1852, ch. 98, secs. 1, 4, 34.

¹ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 3. Acts 1836-37 (general), ch. 2, subch. 2, sec. 1; ch. 21, sec. 1. Rev. Stat. 1838, ch. 94(2), sec. 1. Rev. Stat. 1843, ch. 4, sec. 2, 20.

Wells Organization Acts. Acts 1831-35 (general), ch. 25, sec. 9. Acts 1836-37 (general), ch. 6, sec. 1.

² Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 3. Acts 1836-37 (general), ch. 2, subch. 2, sec. 3. Rev. Stat. 1838, ch. 94, subch. 2, sec. 3. Rev. Stat. 1843, ch. 4, sec. 167.

³ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, secs. 6, 33. Acts 1832-33, ch. 70, secs. 4, 9. Acts 1836-37 (general), ch. 2, subch. 2, secs. 2, 7. Rev. Stat. 1838, ch. 94, subch. 2, secs. 2, 7. Rev. Stat. 1843, ch. 4, sec. 160.

the school funds. He sold school lands at public sale after publishing and posting notice thereof; sold school lands at private sale, at the minimum price fixed by the trustees of such section, after such lands had been offered at public sale and remained unsold; issued certificates and deeds to the purchasers; recorded the sales of such lands in a book provided for that purpose; and delivered a true copy of the sale certificate to the recorder for recording.⁴

The commissioner received all money accruing from the sales of school lands; loaned out the school funds on first mortgages on real estate; charged interest at the rate of 6 percent per annum; required the borrowers to pay certain expenses in connection with making the loans; could deposit in loan offices the moneys arising from the sale of school lands; could sue to recover school fund loans; filed reports with the board of commissioners specifying how much money was received, to whom loaned, the security taken, and the balance due on any unpaid loan; and delivered to the Auditor of State a statement of all money paid into the State Treasury.⁵

Before 1838 when a school section was divided by a county line, it was in charge of the commissioner of the county in which the greater part of such section was situated. After 1838 the township trustee could grant control of such section to the commissioner of any county in which the divided school section was situated.⁶

He kept separate accounts of principal and interest of funds belonging to each Congressional township; kept a record of his proceedings, subject to the inspection and examination of the board of commissioners; and rendered to the board of commissioners an annual report of all money received and disbursed.⁷

⁴ Acts 1828-29, ch. 84, secs. 10, 13; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 7, 13, 34. Acts 1832-33, ch. 70, secs. 43, 51, 55-58, 64, 67, 104. Acts 1836-37 (general), ch. 2, subch. 8, secs. 13-16, 20, 23; ch. 2, subch. 11, sec. 5. Rev. Stat. 1838, ch. 94, subch. 8, secs. 13-16, 20, 23; ch. 94, subch. 11, sec. 5. Rev. Stat. 1843, ch. 13, secs. 177, 185, 186, 195.

⁵ Acts 1828-29, ch. 84, secs. 8, 15, 19; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 6, 19, 22, 24, 26. Acts 1832-33, ch. 70, secs. 8, 64, 86, 91, 92, 100, 115, 116. Acts 1836-37 (general), ch. 2, subch. 9, sec. 1; ch. 2, subch. 10, secs. 12, 15; ch. 2, subch. 11, sec. 11. Rev. Stat. 1838, ch. 94, subch. 9, sec. 1; ch. 94, subch. 10, secs. 12, 15; ch. 94, subch. 11, sec. 11. Rev. Stat. 1843, ch. 13, sec. 109.

⁶ Acts 1828-29, ch. 84, sec. 13. Acts 1836-37 (general), ch. 2, subch. 2, secs. 8, 9. Rev. Stat. 1838, ch. 94, subch. 2, secs. 8, 9.

⁷ Acts 1828-29, ch. 84, sec. 14. Rev. L. 1831, ch. 86, secs. 15, 52. Acts 1832-33, ch. 70, sec. 73. Acts 1836-37 (general), ch. 2, subch. 2, secs. 11, 13, 15. Rev. Stat. 1838, ch. 94, subch. 2, secs. 11, 13, 15.

In 1849 the General Assembly abolished the office of school commissioner and transferred the duties thereof to the county auditor.

XXIV. COMMISSIONER OF THREE PERCENT FUND (1837-43)

LEGAL STATUS

From 1837 until 1843 Wells County had a commissioner of the 3-percent fund, appointed for an indefinite term by the board of commissioners.¹ He posted bond, approved by the board of commissioners, in the amount of \$4,000.²

FUNCTIONS AND RECORDS

By virtue of the compact between the United States and Indiana in 1816, the latter was to receive 3 percent of the net receipts of all public lands sold within its borders, to be used for the construction of public roads and canals within the State under the direction of the State Legislature.³

The 3-percent fund was apportioned, from time to time, by the Legislature to the various counties in the State;⁴ and it was the duty of the commissioner of each county to superintend the expenditure of the money appropriated to his county for the construction of roads and bridges.⁵

The commissioner was required to keep an account of his expenditures and improvements, render a detailed statement of the receipts and expenditures, and make an annual report, on the conditions of the fund, to the board of commissioners.⁶

³ Acts 1848-49 (general), ch. 116, sec. 4.

¹ Acts 1832-33, ch. 58, secs. 2, 5, 7. Acts 1836-37 (general), ch. 35, secs. 2, 3. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32, ch. 13, sec. 121. Commissioners' Record, vol. A, pp. 2, 212.

² Acts 1832-33, ch. 58, secs. 3, 11. Acts 1836-37 (general), ch. 35, sec. 2. Rev. Stat. 1838, ch. 107 (first act), sec. 2.

³ 3 U. S. Stat. 290 (law of 1816), 424 (law of 1818). James Edward Hagerly, "Early Financial History of Indiana," *Indiana History Bulletin* XIV, 268.

⁴ Acts 1832-33, ch. 58, secs. 1, 4. Acts 1836-37 (general), ch. 35, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1. Rev. Stat. 1843, ch. 13, sec. 121.

⁵ Acts 1832-33, ch. 58, sec. 2. Acts 1836-37 (general), ch. 35, sec. 1, ch. 63, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1.

⁶ Acts 1832-33, ch. 58, sec. 7. Acts 1836-37 (general), ch. 35, sec. 1. Rev. Stat. 1838, ch. 107 (third act), secs. 1, 3.

In 1843 the General Assembly abolished the office of the commissioner of the 3-percent fund and transferred the duties of this office to the auditor and treasurer.⁷

XXV. SURPLUS REVENUE AGENT (1837-43)

LEGAL STATUS

From 1837 until 1843 Wells County had a surplus revenue agent who was appointed annually by the State Legislature. He was required to be a qualified voter of the State at the time of his appointment. He posted a bond for double the amount of money to be entrusted to his care, which was approved by the board of commissioners and filed with the clerk of the circuit court.¹ The law provided that any vacancy in the office should be filled through appointment by the board of commissioners.²

FUNCTIONS AND RECORDS

Under an act of Congress of June 23, 1836, surplus funds in the Federal Treasury were distributed as noninterest-bearing loans to the several States in proportion to their respective representation in Congress. The State Treasurer then sent a portion of this fund to each of the various counties for lending to citizens thereof with interest at 8 percent per annum. The interest was devoted to local school operation.³

The surplus revenue agent had custody of the surplus revenue funds aforesaid;⁴ made loans from such funds to citizens residing in the county; charged interest on such loans at the rate of 8 percent per annum; published or posted notices from time to time stating what funds were available for lending; valued all real property offered as security for such loans; ascertained that each loan was for an amount not exceeding 50 percent of the determined valuation;⁵ satisfied himself

⁷ Rev. Stat. 1843, ch. 13, secs. 121-127; ch. 59.

¹ Acts 1836-37 (general), ch. 1, secs. 4, 25. Rev. Stat. 1838, ch. 89 (first act), sec. 4; ch. 89 (second act). Commissioners' Record, vol. A, p. 61, see entry 2. See footnote 16 herein.

² Acts 1836-37 (general), ch. 1, secs. 18, 19. Rev. Stat. 1838, ch. 89 (first act), secs. 18, 19.

³ U. S. Stat. 5-52 (law of 1836). Acts 1836-37 (general), chs. 1, 51.

⁴ Acts 1836-37 (general), ch. 59, secs. 1-3, 6. Rev. Stat. 1838, ch. 89 (first act), secs. 1-3, 6.

⁵ *Ibid.* (both acts), sec. 7.

⁶ *Ibid.* (both acts), secs. 8, 9.

that the title to the property was regularly and legally derived from the Federal Government or the State of Indiana and was unincumbered;⁷ caused all mortgages to be recorded in the recorder's office;⁸ made loans on personal security of two or more freeholders of undoubted responsibility;⁹ made no loans for a term exceeding 3 years nor in an amount exceeding \$400 to one person;¹⁰ collected interest annually in advance and paid the same to the county school commissioner for distribution to the several townships;¹¹ and foreclosed mortgages when necessary to collect loans.¹² All filing fees and other expense of making the loans were paid by the borrower.¹³

On forms furnished by the State Treasurer, the agent kept a register of the names, dates, and amounts of all mortgages taken by him, showing all payments of interest and principal thereon.¹⁴ He made quarterly reports to the State Treasurer and the clerk of the circuit court, showing all transactions during the preceding quarter.¹⁵

In 1843 the General Assembly abolished this office and transferred the duties thereof to the county auditor.¹⁶

XXVI. COUNTY AGENT (1837-52)

LEGAL STATUS

From 1837 to 1852 Wells County had a county agent who was appointed by the board of commissioners. He had no definite term of office before 1843. From 1843 until 1852 his term of office was 3 years. He was required to post a

⁷ *Ibid.* (both acts), sec. 8.

⁸ *Ibid.* (both acts), sec. 15.

⁹ *Ibid.* (both acts), sec. 9.

¹⁰ *Ibid.* (both acts), secs. 10, 11.

¹¹ *Ibid.* (both acts), secs. 9, 13.

¹² *Ibid.* (both acts), sec. 16.

¹³ *Ibid.* (both acts), sec. 15.

¹⁴ *Ibid.* (both acts), sec. 24.

¹⁵ *Ibid.* Rev. Stat. 1838, ch. 89 (second act), sec. 7.

¹⁶ Rev. Stat. 1843, ch. 13, sec. 95; ch. 59, sec. 4.

bond subject to approval of the appointing authority.¹ No county commissioner, auditor, treasurer, or clerk of the circuit court could serve as county agent.²

FUNCTIONS AND RECORDS

The county agent performed various administrative duties delegated to him by the board of commissioners and was directly responsible to such board. He received conveyances of land given or sold for the use of the county, laid off such land into town lots, sold the lots, made conveyances, collected the money therefrom, and paid the same into the county treasury.³

The county library fund received 10 percent of all receipts from such sales.⁴ From the remainder of said receipts the essential expenses and the price of purchased land were paid and the balance used for erection of necessary public buildings. Any remaining funds were applied as any other money in the treasury.⁵

The county kept a record of sales and collections. Every 4 months, or sooner if required, he made a report and financial settlement with the board of commissioners.⁶

In 1852 the General Assembly abolished this office and transferred the duties thereof to the county auditor.⁷

¹ Acts 1817-18 (Spec. Sess.), ch. 1, sec. 2. Rev. L. 1821, ch. 93, secs. 1, 4. Rev. L. 1831, ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 4, sec. 43. Commissioners' Record, vol. A, p. 14 *see* entry 2.

Wells Organization Acts. Acts 1824-35 (general), ch. 25, sec. 9. Acts 1836-37 (general), ch. 17, sec. 1.

² Acts 1817-18 (Spec. Sess.), ch. 2, sec. 4. Rev. L. 1824, ch. 93, sec. 11. Rev. Stat. 1838, ch. 93, sec. 11. Rev. Stat. 1843, ch. 18, sec. 20.

³ 1817-18 (Spec. Sess.), ch. 1, sec. 2. Rev. L. 1824, ch. 93, sec. 4. Rev. Stat. 1831, ch. 85, sec. 4. Rev. Stat. 1838, ch. 93, secs. 1, 4. Rev. Stat. 1843, ch. 19, sec. 12. Commissioners' Record, vol. B, p. 64, *see* entry 2.

⁴ Const. 1816, art. 9, sec. 5. Rev. Stat. 1824, ch. 60, sec. 9. Acts 1825-26, ch. 10, sec. 6. Acts 1826-27, ch. 35, sec. 1. Rev. Stat. 1831, ch. 59, sec. 9.

⁵ *See* footnote 3 herein.

⁶ Acts 1820-21, ch. 11, sec. 1. Rev. L. 1824, ch. 93, sec. 8. Rev. L. 1831, ch. 85, secs. 6, 7. Rev. Stat. 1838, ch. 93, sec. 8. Rev. Stat. 1843, ch. 18, sec. 17.

⁷ Acts. 1851-52, ch. 2, sec. 1.

XXVII. AUDITOR

LEGAL STATUS

The office of auditor was created by an act of 1841, was reestablished by the Constitution of 1851, and has existed in Wells County since 1841. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The auditor must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office; must not practice law;⁶ must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$2,480 per year.⁹ In addition to his regular salary he receives an amount between \$60 and \$75 per year (fixed by the Bluffton common council) for services rendered for the city of Bluffton; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Wells County; and from 1919 until 1933 he also received \$5 per day for each

¹ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Jones v. Cavins*, 4 Ind. 305 (1853).

² Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Griebel v. State ex rel. Neizer*, 111 Ind. 369, 12 N. E. 700 (1887).

⁴ Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, art. 6, sec. 4. *State ex rel. Jeffries v. Kilroy*, 86 Ind. 118 (1882).

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 1 Rev. Stat. 1852, ch. 8, sec. 9. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905, 1941; Burns 1941suppl., 10-3102; Baldwin 1941 suppl., 2676. *State v. Allen*, 21 Ind. 516 (1863); *Wells v. State ex rel. Peden*, 175 Ind. 380, 94 N. E. 321 (1911).

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1941, Burns, 1941 suppl., 49-1021; Baldwin, 1941 suppl., 7534-1.

day he actually served as a member of the county board of review.¹⁰ He is not now entitled to retain, as compensation for himself, any fees which he collects.¹¹

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the first Tuesday after the first Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁴

The auditor may appoint deputies and assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.¹⁵ The auditor may require any deputy to give bond.¹⁶ The deputy must take the oath required of

¹⁰ Acts 1899, ch. 154, sec. 50. Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1231, 48-1238, 49-1001, 49-1004; Baldwin 11412, 11417, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Board of County Comrs., v. Johnson, 127 Ind. 238, 26 N. E. 821 (1891); Tucker v. State ex rel. Board of County Comrs., 163 Ind. 403, 71 N. E. 140 (1904); Board of County Comrs., v. Crowe, 214 Ind. 437, 446 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016 (1938). Op. Atty. Gen. 1934, p. 313; 1936, p. 130.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State ex rel. Board of County Comrs., 165 Ind. 42, 73 N. E. 917 (1905).

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State ex rel. Wright, 31 Ind. 429 (1869). Gemmer v. State ex rel. Stephens, 163 Ind. 150, 71 N. E. 748 (1904). Op. Atty. Gen. 1936, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108, Acts 1933, 1935, 1937; Burns, 1941 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Op. Atty. Gen. 1934, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

the auditor, may perform all the official duties of the auditor, and is subject to the same regulations and penalties.¹⁷ The auditor may remove such deputy and assistants at any time and is responsible for their official acts.¹⁸

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,¹⁹ and included the clerk's previous duties as clerk of the board doing county business,²⁰ as member of the boards performing duties similar to those of the present county board of review,²¹ and duties concerning elections,²² taxation, finance, county business,²³ and selection of petit jurors and grand jurors.²⁴

From 1837 until 1852 Wells County had a county agent whose duties (stated in a separate essay) were transferred to the auditor in 1852.²⁵

FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted, of which he keeps records.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1941 suppl. 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Acts 1840-41 (general), ch. 2, sec. 54. Jones v. Cavins, 4 Ind. 305 (1853).

²⁰ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²¹ Acts 1817-18 (general), ch. 42, sec. 12. Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18.

²² Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 52, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²³ Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. L. 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 171, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

²⁴ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²⁵ See the essay entitled "County Agent (1837-52)."

He keeps a fee and cash book,²⁶ a monthly balance record, and a record of receipts, appropriations, and disbursements.²⁷ He keeps separate accounts for each specific item of appropriation by the county council²⁸ and an account current, with the treasurer, of county funds.²⁹

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report, to the auditor showing the total amount of cash payments received by the treasurer during the month and the respective accounts to which such payments are applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for two years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.³⁰

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.³¹ The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.³² Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.³³ All redeemed

²⁶ Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 38. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

²⁷ Required by order of State Board of Accounts. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

²⁸ Acts 1899; Burns 26-523; Baldwin 5387.

²⁹ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1825; Burns 49-3010; Baldwin 5423. Wells v. State ex rel. Board of County Comrs., 22 Ind. 241 (1864).

³⁰ Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly known as the "commissioners' record") before the State Board of Accounts provided otherwise in 1909. Information obtained from E. P. Brennan, State Examiner, on March 7, 1940, by W. Davis Hamilton.

³¹ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1941 suppl., 26-522; Baldwin, 1935 suppl., 5376. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5658. Acts 1937; Burns, 1941 suppl., 61-617; Baldwin, 1937 suppl., 13844-48.

³² Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

³³ Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1457. 1 Rev. Stat. 1852; Burns 49-3010, 49-3101; Baldwin 5123, 5551.

or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.³⁴

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁵ Records of the warrants are kept in the manner prescribed by the State Board of Accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.³⁶

Before issuing a warrant or quietus the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.³⁷ The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.³⁸

On claims allowed by courts for cost of administration of justice,³⁹ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁴⁰ But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁴¹ The auditor issues warrants

³⁴ Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, State Examiner, on June 14, 1939, by W. Davis Hamilton.

³⁵ Acts 1899; Burns 26-544; Baldwin 5409.

³⁶ Rev. Stat. 1843, ch. 7, 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on August 15, 1939, by W. Davis Hamilton.

³⁷ Acts 1909; Burns 60-215; Baldwin 13866.

³⁸ Gill v. State ex rel. Board of County Comrs., 72 Ind. 266 (1880).

³⁹ Acts 1921, 1935; Burns, 1941 suppl., 4-3*07; Baldwin 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1941 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893, Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2405; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

⁴⁰ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

⁴¹ Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Blue v. State ex rel. Powell, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

for allowances, awards, or assistance granted by the county welfare department when approved by the county welfare director. Claim for administrative expenses of the welfare department must be approved by the board of commissioners.⁴² County hospital claims are paid by the auditor upon order of hospital board.⁴³ He issues warrants on the county treasurer for clothing for insane persons of the county committed to a State hospital on requisition of the superintendent thereof, when certified by the clerk of the circuit court.⁴⁴ A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.⁴⁵

The auditor manages the school funds held in trust by the county,⁴⁶ with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) make all the loans from those funds.⁴⁷ Whenever a Congressional township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.⁴⁸ The auditor conducts the sale of school lands⁴⁹ (including those previously sold and forfeited by the purchasers thereof).⁵⁰ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.⁵¹ He supervises unsold saline lands.⁵²

Funds held by the county in trust for cemetery purposes

⁴² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-24. Op. Atty. Gen. 1926, p. 440.

⁴³ Acts 1917; Burns 22-3218; Baldwin 4519.

⁴⁴ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

⁴⁵ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273. Acts 1848-49 (general), ch. 116, sec. 4.

⁴⁶ Acts 1855, ch. 86; sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1855, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

⁴⁷ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1941 suppl., 28-209; Baldwin, 1935 suppl., 6553. See the essay entitled "County School Fund Board."

⁴⁸ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510. Acts 1848-49 (general), ch. 116, sec. 4.

⁴⁹ Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

⁵⁰ Acts 1851-52, ch. 2, sec. 2. Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6520, 6531, 6538, 6529, 6524, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

⁵¹ Acts 1915; Burns 28-239; Baldwin 5455.

⁵² 1 Rev. Stat. 1852; Burns 62-201; Baldwin 15255.

are managed and loaned by the auditor in the manner provided by law for school funds.⁵³

Annually the auditor reports to the State Examiner the financial condition of the county and the school funds charged to it.⁵⁴

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.⁵⁵

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.⁵⁶

A copy of the annual report (accompanied by vouchers) of each township trustee to the township advisory board is filed in the auditor's office.⁵⁷ Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the Auditor of State the amount of all such claims remaining unpaid for lack of funds.⁵⁸ Quarterly each county official reports to the auditor all humane fund fees collected by him.⁵⁹

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 1 month subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.⁶⁰

In each township having a population not exceeding 5,000 (all townships except Harrison), the office of township assessor

⁵³ Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

⁵⁴ Acts 1909; Burns 60-204; Baldwin 13857.

⁵⁵ Acts 1897, ch. 144, secs. 1, 2.

⁵⁶ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1941 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

⁵⁷ Acts 1899, 1901; Burns 65-318; Baldwin 16075.

⁵⁸ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1941 suppl., 16-327; Baldwin, 1937 suppl., 3811-11.

⁵⁹ Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

⁶⁰ Acts 1899; Burns 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, 64-1330; Baldwin, 1935 suppl., 15735, 15737-1.

has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁶¹

The auditor certifies to the city officials the number of taxable polls therein,⁶² and adds omitted polls to the tax duplicate.⁶³

The auditor takes a very important part in the administration of the property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.⁶⁴ If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.⁶⁵ If a landowner fails to furnish a list of lands and improvements within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which were not assessed the previous year.⁶⁶ The auditor assesses omitted property, after giving notice to the taxpayer, but cannot increase property assessment valuations made by assessors even if purposely undervalued.⁶⁷ For the purpose of the listing

⁶¹ Acts 1937; Burns 64-1031; Baldwin 15664.

⁶² Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

⁶³ Acts 1919; Burns 64-2102; Baldwin 15803.

⁶⁴ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850 §1 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 7, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15669, 15674, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1039; Baldwin, 1937 suppl., 15695. Information obtained from E. P. Brennen, State Examiner, on May 18, 1939, by W. Davis Hamilton.

⁶⁵ Acts 1919; Burns 64-610; Baldwin 15378.

⁶⁶ Acts 1919; Burns 64-1008; Baldwin 16674.

⁶⁷ Acts 1840 §1 (general), ch. 1, sec. 9. Acts 1882, ch. 182, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. Scott v. Knights-own, 84 Ind. 184 (1873); Long v. Clapp, 103 Ind. 17, 2 N. E. 197 (1883); Vandercook v. Williams, 106 Ind. 345, 1 N. E. 618 (1884); Williams v. Segur, 106 Ind. 368, 1 N. E. 707 (1885); McKern v. Haskill, 108 Ind. 97, 8 N. E. 301 (1886); Board of County Comrs. v. Senn, 117 Ind. 410, 20 N. E. 271 (1887); Florer v. Senn, 120 Ind. 495, 28 N. E. 71 (1891); Hannel v. Board of County Comrs., 132 Ind. 32, 31 N. E. 46 (1892); Florer v. Sheridan,

and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.⁶⁸ He receives assessors' reports concerning effort to conceal property from taxation and transmits the same to the board of review.⁶⁹ Acting for the county board of review, the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.⁷⁰ Appeals from the county board of review to the State Board of Tax Commissioners are usually heard in the office of the auditor.⁷¹ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.⁷² Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.⁷³

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.⁷⁴ The auditor keeps a record of all lands classified by the State Forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.⁷⁵

137 Ind. 28, 35 N. E. 365 (1894); *Cummings v. Stark*, 138 Ind. 94, 34 N. E. 444 (1894); *Thicbaud v. Tait*, 138 Ind. 238, 6 N. E. 527 (1894); *Eaton v. Union County Nat. Bank*, 141 Ind. 126, 40 N. E. 668 (1895); *Buck v. Miller*, 147 Ind. 586, 45 N. E. 617 (1896); *Miller v. Vollmer*, 153 Ind. 26, 53 N. E. 919 (1899); *Crowder v. Riggs*, 153 Ind. 158, 53 N. E. 1019 (1899); *Parkison v. Thompson*, 164 Ind. 609, 73 N. E. 109 (1905); *Darnell v. State*, 174 Ind. 143, 90 N. E. 769 (1910).

⁶⁸ Acts 1899, ch. 99, sec. 34. Acts 1919, Burns 64-1006; Baldwin 15549.

⁶⁹ Op. Atty. Gen. 1892, p. 70.

⁷⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷¹ Acts 1919, 1925; Burns, 1941 suppl., 64-1321; Baldwin, 1925 suppl., 15725. State Board of Tax Commissioners, *Tax Rule 6*.

⁷² Acts 1889, ch. 168, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

⁷³ Acts 1891, ch. 99, sec. 83.

⁷⁴ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1847, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1927; Burns, 1941 suppl., 64-1007; Baldwin, 1927 suppl., 15672.

⁷⁵ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6,

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁷⁵ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.⁷⁷ The auditor corrects on the tax books any errors as to description of property and names of owners.⁷⁸

Forms and instructions for taxation purposes are prescribed by the State Board of Tax Commissioners and delivered to the auditor.⁷⁹ The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.⁸⁰ Assessments of omitted real estate by township assessors are filed with the auditor.⁸¹ The auditor makes assessment of any newly platted land additions to any city or town.⁸²

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the State Board of Tax Commissioners to obtain a reassessment of real estate.⁸³

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.⁸⁴

⁷⁶ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

⁷⁷ Acts 1921; Burns 64-519; Baldwin 14777.

⁷⁸ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685.

⁷⁹ Acts 1919; Burns 64-2803; Baldwin 15866. *Thirty-ninth Annual Conference of State Tax Board*, pp. 22-30, 53, 54, 102, 103, 123-139.

⁸⁰ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

⁸¹ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

⁸² Acts 1919; Burns 64-1027; Baldwin 15691.

⁸³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1941 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

⁸⁴ Tax exemptions in general. Acts 1937; Burns, 1941 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon. After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the State Board of Tax Commissioners. The decision of the State Board of Tax Commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporation, and copies of the budgets on which such levies are based. At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates. If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation. The decision of the State Board of Tax Commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.

The auditor certifies to the State Board of Tax Commissioners all emergency appropriations made by the county

Disabled veterans. Acts 1927; Burns 61-206, Baldwin 15987

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1909, Burns, 1941 suppl. 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Thirty-ninth Annual Conference of State Tax Board*, pp. 64-74

Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733

Acts 1889; Burns 26-516 to 26-510; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.), Burns 64-1329, Baldwin 15733. Acts 1919; Burns 61-1310; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.) 1921, 1927, 1937, Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735

Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331, Baldwin, 1935 suppl., 15735.

Acts 1933, Burns 64-302, Baldwin 15893. Acts 1937, Burns, 1941 suppl., 64-311, Baldwin 1937 suppl., 15897-5.

Acts 1937, Burns, 1941 suppl., 64-310, Baldwin, 1937 suppl., 15897-4.

Acts 1907; Burns, 1941 suppl., 64-311, 64-314, Baldwin, 1937 suppl., 15897-5, 15897-8

Acts 1937, Burns, 1941 suppl., 64-314, Baldwin, 1937 suppl., 15897-8

council, together with tax levies based thereon.⁹²

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the Auditor of State.⁹³ Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.⁹⁴ Formerly a separate list of delinquent taxes was delivered by the county auditor to the Auditor of State, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.⁹⁵

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.⁹⁶ The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.⁹⁷ The auditor acts as arbiter in case of partial redemption of lands from tax sale.⁹⁸ When lands are redeemed

⁹² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1941 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁹³ Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. *Standard Oil Co. v. Bretz*, 98 Ind. 231 (1884); *Adams v. Davis*, 109 Ind. 10, 9 N. E. 162 (1886); *Smith v. Smith*, 159 Ind. 388, 65 N. E. 183 (1902).

⁹⁴ Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505. Baldwin 15767.

⁹⁵ Rev. Stat. 1843, ch. 12, sec. 68. Information obtained from Frank G. Thompson, Auditor of State, on June 29, 1939, by W. Davis Hamilton.

⁹⁶ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1941 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Abbott v. Edgerton*, 53 Ind. 196 (1876); *Stropes v. Board of County Comrs.*, 72 Ind. 42 (1880).

⁹⁷ Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. *Gable v. Seiben*, 137 Ind. 155, 36 N. E. 844 (1894).

⁹⁸ Acts 1919; Burns 64-2308; Baldwin 15826.

from tax sale, he issues a certificate of redemption and keeps a record of all redemptions. The auditor executes all tax deeds of land, and keeps a record thereof. On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales. Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.

The State's share of taxes collected by the county treasurer is disbursed to the proper State officers on warrants drawn by the auditor on the county treasury.

The auditor certifies to the treasurer the amount of excise tax due from financial institutions. For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount of deposits, and kindred information. The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.

The auditor issues license for peddlers, shows, theaters,

¹⁰⁰ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919, Burns 64-2317; Baldwin 158-1. Acts 1844-41 (general), ch. 2, secs. 37, 44. Acts 1919, Burns 61-2403 to 61-2409. Paid with 15811, 15833 to 15878. Reid v. State ex rel. Thompson, 74 Ind. 222 (1885); Smith v. Kyler, 1 Ind. 575 (1881); Wooten v. Rockefeller, 81 Ind. 108 (1884); Lancaster v. De Hadway, 97 Ind. 56 (1884); Rowe v. Peabody, 102 Ind. 118, 1 N. E. 27 (1885).

¹⁰¹ Acts 1919, Burns 64-1387, 64-1411, 64-810; Baldwin 157-44, 158-40, 158-81. Acts 1923, Burns 61-2827; Baldwin 158-82. Wolfe v. State ex rel. Kennard, 90 Ind. 16 (1883).

¹⁰² Acts 1881 (Spec. Sess.) ch. 95, sec. 222. Acts 1919, Burns 61-1518; Baldwin 157-22.

¹⁰³ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911, Burns 61-600; Baldwin 1824 (repealed by Acts 1935, ch. 70, sec. 4). Acts 1907, Burns, 1941 suppl., 61-600; Baldwin, 193, suppl., 1841-47.

¹⁰⁴ Acts 193, Burns 61-810, 1841.

¹⁰⁵ Acts 1935, 158-5, Burns, 1941 suppl., 61-807; Baldwin, 1935 suppl., 158-8.

¹⁰⁶ Acts 1923, Burns 61-11; Baldwin 193-5.

¹⁰⁷ Acts 1887, ch. 118. Acts 1923, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 13, sec. 16). Acts 1904, Burns 60-01, 16-62; Baldwin 3826, 1927. Acts 1927, Burns, 1941 suppl., 16-67; Baldwin, 1937 suppl., 1911-1. Emerty v. State ex rel. School City of Gary, 23 Ind. 478, 2 N. E. 270 (1884).

¹⁰⁸ 1 Rev. Stat. 1885, Burns 60-02; Baldwin 1917. Acts 1907, 1927; Burns, 1931 suppl., 42-291; Baldwin, 1927 suppl., 1843. Acts 1907, Burns 41-507, 42-291; Baldwin 104-00, 104-1. Acts 1909, Burns 41-310; Baldwin 104-8.

transient merchants,¹⁰⁹ and public warehouses.¹¹⁰ He approves and files bonds of ferrymen¹¹¹ and records their licenses.¹¹² Formerly he issued licenses for the sale of liquor¹¹³ and foreign merchandise¹¹⁴ as directed by the board of commissioners, and filed remonstrances against issuance of saloon licenses by the board of commissioners.¹¹⁵

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains,¹¹⁶ and releases such liens after expiration or payment thereof.¹¹⁷ Assessments for levees and flood gates¹¹⁸ and for the cutting or eradicating of Canada thistles¹¹⁹ are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.¹²⁰

The board doing county business has always had power to

¹⁰⁹ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

¹¹⁰ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

¹¹¹ Acts 1817-18 (general), ch. 45, sec. 8. Rev. L. 1824, ch. 42, sec. 8. Rev. L. 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2607; Baldwin 7697.

¹¹² Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

¹¹³ Acts 1817-18 (general), ch. 47, secs. 2, 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2) Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. *Padgett v. State*, 93 Ind. 396 (1884).

¹¹⁴ Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. L. 1824, ch. 23, sec. 3. Rev. L. 1831, ch. 2, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

¹¹⁵ Acts 1905, ch. 6, sec. 1.

¹¹⁶ Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens*, 104 Ind. 46, 3 N. E. 401 (1885); *Lockwood v. Ferguson*, 105 Ind. 380, 5 N. E. 3 (1886); *Board of County Comrs. v. Fahlor*, 114 Ind. 176, 15 N. E. 830 (1886).

¹¹⁷ Acts 1941; Burns, 1941 suppl., 27-140; Baldwin, 1941 suppl., 5771-1.

¹¹⁸ Acts 1903; Burns 27-703; Baldwin 5841.

¹¹⁹ Acts 1929, 1937; Burns, 1941 suppl., 15-904; Baldwin, 1937 suppl., 3719.

¹²⁰ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays*, 88 Ind. (1882); *Vizzard v. Taylor*, 97 Ind. 90 (1884); *White v. Fleming*, 114 Ind. 560, 16 N. E. 487 (1888); *Cooper v. Ray*, 148 Ind. 328, 47 N. E. 663 (1897).

establish, construct, repair, and vacate county roads.¹²¹ The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.¹²² Road petitions are filed with the auditor for presentment to the board of commissioners.¹²³ When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.¹²⁴ Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.¹²⁵ The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.¹²⁶ Formerly the auditor annually delivered to the road supervisor a list of landowners of the county¹²⁷ and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.¹²⁸

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.¹²⁹ When a bond is required of any such officer, it also is filed with the auditor.¹³⁰ The

¹²¹ Acts 1867, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. L. 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. L. 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8892 *et seq.* Acts 99, Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933, Burns 36-1101 *et seq.*; Baldwin 8669 *et seq.*

¹²² Acts 1921; Burns 36-1451, Baldwin 8954. Acts 1905, Burns 36-1222; Baldwin 8823

¹²³ Acts 1919, 1921; Burns 36-204, Baldwin 8862.

¹²⁴ Acts 1867, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. Turpin v Eagle Creek & L. W. L. G. R. Co., 48 Ind. 45 (1874).

¹²⁵ Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1867, ch. 45, sec. 3. Acts 1905, 1907, Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412, Baldwin 8855. Florio v McAfee, 135 Ind. 540, 35 N. E. 277 (1895); Smyth v. State ex rel. Braun, 168 Ind. 332, 62 N. E. 449 (1907).

¹²⁶ Acts 1914, Burns, 1941 suppl., 36-1114, Baldwin, 1935 suppl., 8703-1.

¹²⁷ Rev. Stat. 1843, ch. 16, sec. 105.

¹²⁸ Acts 1883, ch. 56, sec. 20.

¹²⁹ Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104, Baldwin 12057

¹³⁰ Rev. Stat. 1843, ch. 4, sec. 87, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105, Baldwin 13057, 13061.

board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.¹³¹ The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.¹³² The official bond of each township trustee is approved by the auditor.¹³³

The auditor is clerk of the board of commissioners,¹³⁴ the county council,¹³⁵ and the county board of tax adjustment;¹³⁶ and he is secretary of the board of finance.¹³⁷ He is also a member and secretary of the county board of review,¹³⁸ and a member of the county school fund board.¹³⁹ From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.¹⁴⁰ Formerly the auditor was a member of the election board under the local option liquor laws,¹⁴¹ was a member of the district board of equalization,¹⁴² and was clerk of the old-age pension board.¹⁴³ The auditor keeps a record of all the boards of which he is a clerk or secretary.

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised,

¹³¹ Acts 1851-52; Burns 49-123; Baldwin 13093.

¹³² Acts 1919, 1921; Burns 61-1101; Baldwin 15696.

¹³³ Acts 1899, 1898; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103. Baldwin 16061. *Cepeland v. State ex rel. Davis*, 106 Ind. 51, 25 N. E. 866 (1890).

¹³⁴ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1875, ch. 47, sec. 1. 1 Rev. Stat. 1892; Burns 26-311, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

¹³⁵ Acts 1899; Burns 26-509; Baldwin 5373.

¹³⁶ Acts 1912 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 277, sec. 4. Acts 1937; Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 17847-4.

¹³⁷ Acts 1907; Burns, 1941 suppl., 61-629; Baldwin, 1907 suppl., 13844-50.

¹³⁸ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹³⁹ Acts 1865, 1907; Burns, 1941 suppl., 28-209; Baldwin 1935 suppl., 6558.

¹⁴⁰ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

¹⁴¹ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. *Kunkle v. Coleman*, 174 Ind. 315, 92 N. E. 61 (1910).

¹⁴² 1 Rev. Stat. 1852, ch. 35, secs. 5-7. This board was abolished by Acts 1872 (Spec. Sess.), ch. 37.

¹⁴³ Acts 1933, ch. 26, secs. 2, 9, 12 (all repealed by Acts 1826 (Spec. Sess.), ch. 2, sec. 129).

and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection. If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the State Board of Tax Commissioners for hearing and disposition. Contracts for the extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.

The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners. He makes certificates showing quality and price in compliance with the contract. He publishes all such claims and allowances thereon and also all allowances against the county made by courts. On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcripts of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.

Scalps of woodchucks, wolves, and foxes; heads of owls, hawks, and crows; and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.

¹⁴⁴ Acts 1909, 1921, Burns 26-540; Baldwin 5405.

¹⁴⁵ Acts 1919, 1926 (Spec. Sess.), 1921, 1923; Burns 61-1332; Baldwin 15726.

¹⁴⁶ Acts 1932, Burns 26-1015 to 26-1017, Baldwin 5553 to 5555.

¹⁴⁷ Rev. Stat. 1913, ch. 7, sec. 56. 1 Rev. Stat. 1832; Burns 49-2005, Baldwin 5419.

¹⁴⁸ Acts 1879 (Spec. Sess.), Burns 26-835; no Baldwin.

¹⁴⁹ Acts 1886, Burns 26-38, Baldwin 540.

¹⁵⁰ Acts 1871, ch. 10, sec. 1. Acts 1866, Burns 26-517, Baldwin 2668. Acts 1901, Burns 26-501 to 26-510, Baldwin 5566 to 5571. *Cheney v. State ex rel. Ross*, 165 Ind. 1, 74 N. E. 892 (1905).

¹⁵¹ 1 Rev. Stat. 1872, Burns 26-901, 903, Baldwin 5278, 5279. *Scotten v. Dive'bina*, 46 Ind. 101 (1844). *Boyle v. Moore*, 56 Ind. 183 (1844). *Stretcher v. Livingston*, 100 Ind. 478, 74 N. E. 424 (1906). *Smith v. Gustin*, 100 Ind. 481 N. E. 422 (1907).

¹⁵² Acts 1875, Burns 26-1191, Baldwin 5258. Acts 1882, Burns 26-1192, Baldwin 5259. Acts 1911, Burns 26-1193, Baldwin 5260.

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.¹⁵³

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examines the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.¹⁵⁴ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.¹⁵⁵

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the State Superintendent of Public Instructions.¹⁵⁶

The Auditor of State prepares maps or plats of the lands belonging to the State and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the State, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.¹⁵⁷

The auditor must preserve the documents, books, papers,

¹⁵³ Acts 1899, 1903, 1933; Burns 26-526; Baldwin 5401.

¹⁵⁴ Acts 1875; Burns 26-201; Baldwin 5032.

¹⁵⁵ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

¹⁵⁶ Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State ex rel. Nebecker v. Sutton, 99 Ind. 300 (1884); State ex rel. Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State ex rel. Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State ex rel. Drummond v. Dillen, 125 Ind. 65, 25 N. E. 136 (1890); State ex rel. Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

¹⁵⁷ Acts 1825, ch. 47, sec. 2. Rev. L. 1831, ch. 11, sec. 6. Rev. L. 1838, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

and maps deposited in his office.¹⁵⁸ If any map or plat in his office becomes worn or defaced, he makes a new copy thereof. He takes copies of maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.¹⁵⁹

Under former laws the auditor prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;¹⁶⁰ delivered election supplies to the registration inspector of each precinct;¹⁶¹ kept the completed registration books and forms in his office, open to public inspection;¹⁶² filed in his office petition for elections under the local option liquor laws;¹⁶³ and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with transcripts of the proceedings of the board.¹⁶⁴

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the State Department of Public Welfare.¹⁶⁵

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.¹⁶⁶ The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the

¹⁵⁸ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53, ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852, Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 61-1201; Baldwin 15700.

¹⁵⁹ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁶⁰ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁶¹ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶² Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶³ Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

¹⁶⁴ Acts 1816-17, ch. 9, sec. 22. Rev. L. 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

¹⁶⁵ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the State Board of Charities. In 1936 the duties of that board were transferred to the State Department of Public Welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

¹⁶⁶ Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

auditor, who delivered them to the State Superintendent of Public Instruction.¹⁶⁷

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the State over 21 years old.¹⁶⁸ Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.¹⁶⁹ The trustees' returns are filed in the office of the auditor.¹⁷⁰ The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.¹⁷¹ The auditor then certifies the corrected enumerations to the Auditor of State.¹⁷² Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."¹⁷³

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁷⁴

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.¹⁷⁵

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the

¹⁶⁷ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

¹⁶⁸ Const. 1816, art. 3, sec. 2. Const. 1851, art. 4, sec. 4. Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

¹⁶⁹ Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

¹⁷⁰ Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

¹⁷¹ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

¹⁷² Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

¹⁷³ Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

¹⁷⁴ 2 Rev. Stat. 1852, ch. 4, secs. 4, 17, pp. 6, 7. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁷⁵ Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

board of commissioners.¹⁷⁶ Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.¹⁷⁷

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.¹⁷⁸

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.¹⁷⁹ Formerly financial statements of banks were filed with the auditor.¹⁸⁰

Formerly the auditor, as clerk of the board of commissioners, issued old-age pension certificates to applicants approved by the board, and delivered duplicates thereof to the Auditor of State.¹⁸¹

Copies of reports to the State Board of Accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.¹⁸²

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.¹⁸³

The auditor, as relator, may sue, in the name of the State, to recover money owing to the county;¹⁸⁴ and the auditor may compromise the suits brought by him and receive the money agreed to be paid.¹⁸⁵

¹⁷⁶ Rev. Stat. 1843, ch. 10, sec. 4.

¹⁷⁷ Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁷⁸ Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

¹⁷⁹ Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional, *Henderson v. London & Lancashire Ins. Co.*, 135 Ind. 23, 34 N. E. 565 (1893).

¹⁸⁰ Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹⁸¹ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁸² Acts 1909; Burns 60-211; Baldwin 13862.

¹⁸³ Acts 1879 (Spec. Sess.); Burns 49-2018; Baldwin 5434.

¹⁸⁴ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson*, 15 Ind. 218 (1860), *Scotten v. State ex rel. Simonton*, 51 Ind. 57 (1875), *Yater v. State ex rel. Board of County Comrs* 58 Ind. 379 (1877), *Hosetler v. State ex rel. Deann*, 62 Ind. 183 (1878), *Vanaradall v. State ex rel. Watson*, 66 Ind. 176 (1879), *Gaunt v. State ex rel. Stout*, 81 Ind. 137 (1881); *Heagy v. State ex rel. Farkner* 84 Ind. 260 (1882); *Demaree v. Holdeman* 157 Ind. 467, 62 N. E. 17 (1901).

¹⁸⁵ *Cabel v. McCafferty*, 53 Ind. 75 (1856); *Vigo Twp. v. Board of County Comrs.*, 111 Ind. 170, 12 N. E. 305 (1887).

The auditor and his deputies can administer all oaths necessary in the performance of their duties.¹⁸⁶

Forms of various books, blanks, documents, and reports have been prescribed for county auditors by the State Board of Accounts,¹⁸⁷ which was created in 1909.¹⁸⁸ Nearly all of these forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the State Board of Accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the State Board consolidated many of his records that year.¹⁸⁹

The auditor must keep all books and records in a fire-proof building when available.¹⁹⁰

RECEIPTS AND DISBURSEMENTS

GENERAL FUNDS

287. MONTHLY FINANCE RECORD, 1880-. 13 vols. (2-9; 5 vols. unlabeled).

Record of monthly balances of county funds, showing date of balance, amounts of receipts and disbursements, names of funds, and current balance or overdraft in each fund. Arr. chron. by date of balance. No index. Hdw. 150 pp. 23 x 20 x 1½. 11 vols., 1880-1923, attic strg. room; 1 vol., 1924-30, aud. rec. room; 1 vol., 1931-, aud. off.

288. AUDITOR'S FEE AND CASH BOOK, 1895-. 5 vols. (1, 3-6). Title varies: Register Auditors Cost, 1895-1909, 1 vol.

Record of fees, showing date, nature, and amount of payment; name of payer; and date and amount paid to treasurer. Arr. chron. by date of payment. No index. Hdw. 150 pp. 18 x 13 x 2. 2 vols., 1895-1909, 1918-24, attic strg. room; 3 vols., 1910-17, 1925-, aud. off.

¹⁸⁶ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

¹⁸⁷ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁸⁸ Acts 1909; Burns 60-202; Baldwin 13855.

¹⁸⁹ *Ibid.* Information obtained from E. P. Brennan, State Examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁹⁰ Rev. Stat. 1843, ch. 7, sec. 22. 1 Rev. Stat. 1852; Burns 26-624, 49-3004; Baldwin 5240,

289. AUDITOR'S LEDGER OF RECEIPTS, APPROPRIATIONS, AND DISBURSEMENTS, 1924-. 5 vols.

Record of receipts, appropriations, and disbursements, showing dates and amounts of receipts, appropriations, and disbursements; receipt and warrant numbers; names of payer, payee, and fund; and appropriation balance. This is a combination of two records formerly kept separately: Auditor's register of receipts, entry 290; record of appropriations and disbursements, entry 291. Arr. by name of fund and chron. thereunder by date of receipt, appropriation, and disbursements. No index. Hdw. 450 pp. 17 x 17 x 3. Aud. off.

290. AUDITOR'S REGISTER OF RECEIPTS, 1875-1923. 10 vols. 1924-in Auditor's Ledger of Receipts, Appropriations, and Disbursements, entry 289.

Record of receipts of county revenue, showing date, number, and amount of receipt and name of fund. Arr. chron. by date of receipt. No index. Hdw. 250 pp. 18 x 12 x 3. Attic strg. room.

291. RECORD OF APPROPRIATIONS AND DISBURSEMENTS, 1900-1923. 15 vols. (2-5; 11 vols. unlabeled). Title varies: Record of Appropriations and Ledger of Accounts, 1900-1910, 10 vols. 1924-in Auditors Ledger of Receipts, Appropriations, and Disbursements, entry 289.

Record of appropriations and disbursements, showing dates, nature, and amounts of appropriations and disbursements, and names of payee and fund. Arr. by name of fund and chron. thereunder by date of disbursement. No index. Hdw. 300 pp. 16 x 19 x 2½. 14 vols., 1900-1920, attic strg. room; 1 vol., 1921-23, aud. off.

292. RECORD OF RECEIPTS, 1911-. 7 vols.

Record of receipts of county revenue other than tax payments, showing date, number, nature, and amount of receipt; names of payee and fund; and total. Arr. chron. by date of receipt. No index. Hdw. 450 pp. 17 x 18 x 2½. 4 vols., 1911-24, attic strg. room; 2 vols., 1925-36, aud. rec. room; 1 vol., 1937-, aud. off.

293. JOURNAL, 1850-76. 2 vols. (2, 3).

Daily register of receipts and disbursements, showing date, nature, number, and amount of receipt and warrant and names of payer, payee, and fund. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 600 pp. 16 x 12 x 2½. Attic strg. room.

294. LEDGER, 1851-81. 1 vol. (2).

Record of receipts and disbursements of county funds, showing dates and amounts of receipts and disbursements, warrant and receipt numbers, name of fund, and balance. Arr. by name of fund and chron. thereunder by dates of receipt and disbursement. No index. Hdw. 350 pp. 16 x 12 x 2 $\frac{1}{2}$. Attic strg. room.

295. TREASURERS RECEIPTS, 1923-. 5 f. b.

Original receipts issued by treasurer for money paid to county and presented to auditor to obtain quietuses, showing date, amount, number, and nature of receipt and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 11 x 5 x 14. Aud. off.

296. REGISTER OF WARRANTS, 1924-. 9 vols.

Carbon copies of warrants and register of disbursements, showing date, nature, number, and amount of warrant and name of payee. Arr. numer. by warrant no. No index. Typed. 1650 pp. 17 x 12 x 7. 5 vols., 1924-25, 1932-37, aud. rec. room; 2 vols., 1926-31, attic strg. room; 2 vols., 1938-, aud. off.

297. REGISTER OF WARRANTS ISSUED, 1854-1923. 15 vols.

Register of warrants drawn for disbursement of funds, showing date, nature, number, and amount of warrant and name of payee. Arr. chron. by date of warrant. No index. Hdw. 430 pp. 17 x 12 x 2 $\frac{1}{2}$. Attic strg. room.

298. WARRANTS, 1920-. 17 f. b.

Bank statements and canceled warrants, consisting of:

- i. Canceled warrants, showing date, number, nature, and amount of warrant; date of cancelation; name and address of depository; and name of payee. Arr. chron. by date of cancelation.

- ii. Monthly statements by county depositories, showing dates of statement, deposits, and withdrawals; name and address of depository; and amounts of opening balance, deposits, interest, withdrawals, and closing balance. Arr. chron. by date of statement.

No index. Typed. 11 x 5 x 14. Treas. rec. room.

299. WARRANTS, 1920-. 22 f. b.

Carbon copies of warrant drawn for disbursement of county fund, showing date, number, nature and amount of warrant, name of payee, and name and address of depository. Arr. numer. by warrant no. No index. Typed. 11 x 5 x 14. Treas. rec. room.

300. VENUE RECORD, 1924-June 21, 1925, Jan. 7,-Feb. 1928. 1 vol.

Record of receipts and disbursements for causes venued to and

from other counties, showing dates, numbers, and amounts of receipts and warrants; names of plaintiff, defendant, and foreign county; and nature and cause number. Arr. chron. by dates of receipt and disbursement. No index. Hdw. 200 pp. 14 x 14 x 2. Aud. off.

301. QUARTERLY REPORTS OF OFFICIALS, 1911-. 2 f. b.

Quarterly reports by county officials of fees collected, showing dates of report and period covered, names of official and office, itemized statement and amount collected, and date of payment to treasurer. Arr. chron. by date of report. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

302. COURT ALLOWANCE, 1917-. 6 f. b.

Orders for allowances issued by judge of circuit court, showing dates of order and allowance; names of payee and court; and amount, number, and purpose of allowance. Arr. chron. by date of order. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

303. ALLOWANCES, 1920-. 6 f. b.

Canceled warrants issued for payment of court allowances, showing date, number, amount, and purpose of warrant; date of court term; and name of payee. Arr. chron. by date of court term. No index. Hdw. 12 x 5 x 12. Clk. off.

304. AUDITOR'S CERTIFICATE OF DISTRIBUTION, 1928-. 1 f. b.

Copies of auditor's certificates of distribution of funds, showing date of certificate; amount of distribution; names of payee, taxing unit, and fund; and date, number, and amount of warrant. Arr. chron. by date of certificate. No index. Hdw. 11 x 5 x 14. Treas. rec. room.

305. CERTIFICATES OF DISTRIBUTION, 1871-1908, 1912-18, 1924, 1928-. 7 vols. (5 vols. unlabeled; 3, 4) and 1 bdl. Title varies: Apportionment Book, 1871-83, 1 vol.; Settlement and Disbursement Record, 1893-1903, 1 vol.; Settlement and Distribution Record, 1904-8, 1 vol.

Record of semiannual settlement and distribution of tax revenue, showing dates of settlement and distribution; names of taxing unit and fund; amounts of taxes collected, delinquent, distributed to each fund, and insolvent taxes dropped. Arr. chron. by date of settlement. No index. Hdw. 4 vols. 75 pp. 10 x 9 x 1; 3 vols. 200 pp. 18 x 20 x 1; bdl. 14 x 7 x 3. 6 vols., 1871-1908, 1912-18, 1924, attic strg. room; 1 bdl., 1928-37, aud. rec. room; 1 vol., 1938-, aud. off.

306. APPLICATION TO PAY, 1924-. 3 vols.

Copies of applications to pay and quietuses, showing appli-

cation and quietus numbers; date, nature, and amount of payment; and names of payer and fund. This is a combination of two records formerly kept separately: Application to pay, entry 307; and quietus, entry 308. Arr. numer. by application no. No index. Typed. 250 pp. 16 x 12 x 1. Aud. off.

307. APPLICATION TO PAY, 1891-Jan. 22, 1892, Oct. 8,

1921-Feb. 1924—in Application to Pay, entry 306.

Stubs and copies of applications to pay money to treasurer, showing date and number of application, names of payer and fund, and amount and purpose of payment. Arr. numer. by application no. No index. Hdw. 250 pp. 16 x 12 x 1. Attic strg. room.

308. QUIETUS, 1904-13, 1919-Feb. 1924. 6 vols. Mar.

1924—in Application to Pay, entry 306.

Stubs and copies of quietuses issued for payments to treasurer, showing date, number, and amount of quietus; names of payer and fund; and purpose of payment. Arr. numer. by quietus no. No index. Hdw. 250 pp. 15 x 12 x 1½. Attic strg. room.

SCHOOL FUNDS

309. REGISTER OF RECEIPTS-SCHOOL FUNDS, 1853-81. 1 vol.

Record of receipts of school funds, showing date, amount, number, nature of receipt and names of payer and fund. Arr. chron. by date of receipt. No index. Hdw. 350 pp. 16 x 11 x 2. Aud. strg. room.

310. REGISTER OF TRUST FUND ORDERS, 1850-63. 1 vol.

Contains:

- i. Record of orders drawn for disbursements of school fund, showing date, nature, number, and amount of order and name of payee and fund. Arr. chron. by date of order.
- ii. Statements of apportionments to various taxing units of taxes discharged, refunded, delinquent, and poll and dog taxes collected after regular settlement, showing date of statement, name of taxing unit, and nature and amount apportioned. Arr. chron. by date of statement.

No index. Hdw. 200 pp. 16 x 10 x 1. Attic strg. room.

311. REGISTER OF SCHOOL FUND LOANS, 1852-. 5 vols.

Record of school fund loans, showing date, number, and amount of loan; dates of maturity, interest, and principal payments; name and address of mortgagor; and location and description of property. Arr. chron. by date of loan. Indexed alph. by name of mortgagor. Hdw. 500 pp. 16 x 12 x 2¼. 2 vols., 1852-Sept. 1899, attic strg. room; 3 vols., Oct. 1899-, aud. off.

312. SCHOOL FUND MORTGAGES, 1906-. 2 f. d.

Contains:

- i. Abstracts of title to property mortgaged to secure school fund loans, showing dates of abstracter's certification, deeds, mortgages, and liens; transcripts of deeds, mortgages, and liens; name of mortgagor; and chain of title.
- ii. Insurance policies covering buildings located on property mortgaged to secure school fund loans, showing dates of policy and expiration, names of insurance company and owner or mortgagor, location and description of property, amounts of policy and premium, and conditions of policy.
- iii. Original mortgages executed to secure school fund loans, showing information as in entry 102.

Arr. alph. by name of mortgagor. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

313. INVENTORY TRUST FUND LOANS, 1903-. 1 vol.

Inventory of trust and school fund loans, showing date of inventory; date, number, and amount of loan; name of fund; unpaid balance of principal and interest, dates interest due and paid; amount of loans represented by forfeited land or foreclosure loans; and volume and page reference to record of school fund loans, entry 311. Arr. numer. by loan no. No index. Hdw. 240 pp. 16 x 17 x 2. Aud. off.

314. RECORD OF CONDITION AND DISTRIBUTION OF SCHOOL FUNDS, 1927-. 1 vol.

Record of condition, distribution, and readjustments of school funds, showing date of statement; name of fund; amounts of previous balance, loans outstanding, cash in treasury, interest due county, losses on loans, funds due to and from other counties, liquor license fees, and dog taxes; school enumeration; name of taxing unit; total revenue available for semiannual distribution; date, amount, and number of warrant; and adjustment and balance sheets. Arr. alph. by name of fund. No index. Hdw. 319 pp. 16 x 17 x 2½. Aud. off.

315. APPORTIONMENT OF SCHOOL REVENUE, 1853-1927. 2 vols.

(1, 2) and 1 f. b. Title varies: School Journal 1853-Jan. 1892, 1 vol.

Auditor's copies of reports to State Superintendent of Public Instruction of apportionment of school fund revenue to county school units, showing date of report, name of school unit, enumeration and aggregate attendance of school pupils, and amount apportioned to each unit. Arr. chron. by date of

report. No index. Hdw. Vols. 300 pp. 15 x 12 x 1½; f. b. 11 x 5 x 14. 1 vol., 1853-Jan. 1892, attic strg. room; 1 vol. and f. b., June 1892-1927, aud. off.

316. SCHOOL FUND RECEIPTS [Foreclosures], 1928-. 1 f. b. Contains:

- i. Appraisers' reports, showing dates of report and filing, names of appraisers and mortgagor, appraised valuation of property, and location and description of property. Arr. chron. by date of report.
- ii. Copies of receipts for payment of purchase price of property, showing date, number, and amount of receipt and name of purchaser. Arr. chron. by date of receipt.
- iii. Notices of sales and proofs of publication, showing dates of notice and sale, name of mortgagor, location and description of property, and publisher's affidavit of publication. Arr. chron. by date of notice.
- iv. Copies of deeds, showing dates of deed and recording, names of grantor and grantee, location and description of property, and amount of consideration. Arr. chron. by date of deed.

No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

TOWNSHIP FUNDS

317. POOR RELIEF CLAIM, 1935-. 17 f. b.

Poor relief orders and claims, showing dates of order, claim, and filing; order, claim, and warrant numbers; names of vendor and recipient; itemized list of articles furnished; nature of service rendered; and amounts of order, claim, and warrant. Arr. chron. by date of claim. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

318. POOR RELIEF CLAIM REGISTER, 1935-. 1 vol.

Record of appropriations and disbursements for poor relief, showing dates and amounts of appropriation and disbursement; names of township and fund; amounts paid from county, State, and Federal funds; and total disbursements. Arr. by name of t. and chron. thereunder by dates of appropriation and disbursement. No index. Hdw. 100 pp. 12 x 18 x 1½. Aud. off.

319. LEDGER [Poor Relief], 1918-24. 1 vol.

Record of receipts and disbursements of poor relief funds, showing date, amount, number, and nature of receipt and warrant; name of township; total receipts and disbursements;

and balance. Arr. chron. by dates of receipt and warrant. Indexed alph. by name of t. Hdw. 370 pp. 16 x 12 x 2. Aud. off.

320. TOWNSHIP TRUSTEE'S ANNUAL REPORT, 1911-. 251 vols. Copies of trustees annual financial report to township advisory board, showing dates of report, distributions, and vouchers; amount and number of voucher; name of advisory board member, township trustee, payee, and fund; and balance in cash fund. Arr. chron. by date of report. No index. Hdw. 50 pp. 15 x 10 x 4. 150 vols., 1911-30, attic strg. room; 97 vols., 1931-39, aud. rec. room; 9 vols., 1939-, aud. off.

321. TRUSTEES SETTLEMENT, 1880-89. 2 vols. (1, 2). Trustees financial report to county board of commissioners of expenditures of township funds, showing dates of report and period covered; names of township and fund; amounts of receipts, disbursements, and balances at beginning and ending of fiscal year. Arr. alph. by name of t. No index. Hdw. 235 pp. 16 x 12 x 2. Attic strg. room.

322. TRUSTEE'S DOG REPORTS, 1915-21, 1922-. 1 bdl. and 1 f. b.

Township trustees' annual report to auditor of receipts and disbursements of dog funds, showing dates of report, receipt, and disbursement; names of township, trustee, payer, and payee; number and nature of order and voucher; and amounts of previous balance, receipts, disbursements, totals, and orders outstanding. Arr. chron. by date of report. No index. Hdw. and typed. Bdl. 4 x 12 x 16; f. b. 11 x 5 x 14. 1 bdl., 1915-21, attic strg. room; 1 f. b., 1922-, aud. off.

TAXATION

REAL, PERSONAL AND POLL

323. TRANSFER BOOK, 1836-. 106 vols. (dated). Subtitled by names of taxing units.

Record of ownership and transfers of title to real property, showing dates of deed and transfer; description and location of property; kind of deed; names of owner, grantee, grantor, and taxing unit; and amount of fee. Arr. by name of taxing unit and alph. thereafter by name of grantee. No index. Hdw. 30 pp. 12 x 14 x 2 1/2. 78 vols., 1836-1901, attic strg. room; 33 vols., 1902-, aud. off.

324. PLAT BOOK, 1907. 3 vols.

Plat book of 1907 and 1907, showing plat of each tract,

number of acres; location, description, and assessed valuation; and names of owner and taxing unit. Arr. numer. by section no. No index. Hdw. 60 pp. 16 x 11 x 1/2. Attic strg. room.

325. ASSESSOR'S BOOK, 1892-95, 1899-. 395 vols. (dated).

Subtitled by names of taxing units.

Record of real estate and personal property assessments, showing year of assessment; name of owner; location, description, and assessed valuation of property; amounts of exemption and tax due; and number of polls. Arr. alph. by name of owner. No index. Hdw. 150 pp. 17 x 14 x 1. 307 vols., 1892-95, 1899-1929, 1931, attic strg. room; 38 vols., 1930, 1932-33, aud. rec. room; 50 vols., 1934-, aud. off.

326. REAL ESTATE ASSESSMENTS, 1859-75, 1925, 1932.

37 vols. (dated). Subtitled names of taxing units.

Assessment lists of real estate and improvements, showing year of assessment; name and address of owner; location, description, and valuation of real estate and improvements; total assessed valuation; and name of taxing unit. Arr. alph. by name of owner. No index. Hdw. 325 pp. 14 x 9 x 2. 18 vols., 1859-75, 1925, attic strg. room; 19 vols., 1932, asssr. off.

327. ASSESSMENTS, 1921-. 582 vols. (dated). Subtitled

by names of taxing units.

Schedules of assessments of personal property, showing date and amount of assessment; name, age, occupation, and address of owner; name of taxing unit; schedule of property owned; owner's and assessor's valuation; number of polls; and statement of intangible tax paid. Arr. alph. by name of owner. No index. Hdw. 200 pp. 14 x 9 x 2. 407 vols., 1921-33, attic strg. room; 175 vols., 1934-, treas. rec. room.

328. CORPORATIONS, 1910-. 14 f. b.

Statements of partnerships, firms, and foreign corporations, of all holdings in county, showing date of statement; name of partnership, firm, or corporation; kind of business; location of principal office; amount of gross receipts for last fiscal year; amount of insurance carried on property in county; market valuation of real and personal property; amount of intangibles owned, and financial statement. Arr. chron. by date of statement. No index. Hdw. 11 x 5 x 14. Aud. off.

329. ABSTRACT OF ASSESSMENT OF PROPERTY, 1923-. 1 shelf.

Copies of abstracts of assessment and settlement sheet, consisting of:

i. Abstracts of assessments, showing date of sheet;

name of taxing unit; number of acres; assessed valuation of real and personal property; total assessed valuation; amounts of exemption and taxes; and total amounts of assessed valuation, exemptions, and taxes for county.

- ii. Copies of settlement sheets, 1924- showing date of settlement, names of taxing unit and fund, amounts and kind of tax collections, amounts apportioned to each fund, and amount of delinquent taxes.

Arr. alph. by name of taxing unit. No index. Hdw. 10 x 54 x 24. Aud. rec. room.

- 330. TAX DUPLICATE [and Delinquent List], 1877-1901. 49 vols.

Record compiled by auditor of taxes payable and amounts returned delinquent, showing information as in entry 271. Also contains: Tax duplicate, 1877-1901, entry 331. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 250 pp. 18 x 22 x 2½. Attic strg. room.

- 331. TAX DUPLICATE, 1849-52, 1854-55, 1866-68, 1871-76. 17 vols., 1877-1901 in Tax Duplicate [and Delinquent List], entry 330.

Record compiled by auditor of taxes payable, showing information as in entry 272, except date and amount of payment. Arr. by name of taxing unit and alph. thereunder by name of taxpayer. No index. Hdw. 250 pp. 18 x 22 x 2½. Attic strg. room.

- 332. DELINQUENT RECORD, 1846-75. 7 vols.

Record of delinquent taxes, showing year of delinquency; names of property owner and taxing unit; location and description of real property; assessed valuation of real and personal property; amounts of delinquency, penalty, interest, and poll tax, and total amount of tax delinquent. Arr. by name of taxing unit and alph. thereunder by name of property owner. No index. Hdw. 360 pp. 17 x 11 x 2. Attic strg. room.

EXEMPTIONS

333. AFFIDAVITS OF MORTGAGE EXEMPTION, 1926-. 156 vols. Affidavits by property owners of mortgage indebtedness on real property, showing dates of affidavit and mortgage; names of mortgagor and taxing unit; name and address of mortgagee; location and description of property; amounts of mortgage, unpaid balance, and exemption claimed and allowed; and volume and page reference to mortgage record, entry 100. Arr.

alph. by names of mortgagors. No index. Hdw., 15 x 9 x 1 1/2. 104 vols., 1922-35, attic strg. room; 26 vols., 1936-37, aud. strg. room; 26 vols., 1938-, aud. off.

334. SOLDIERS EXEMPTION, 1926-. 13 vols.

Affidavits by totally-disabled veterans and nurses or widows of such veterans filed to obtain tax exemption, showing date of affidavit and filing; name, age, address, and service record of veteran or nurse, or name of widow; name of taxing unit; pension certificate or compensation or award number; and description and valuation of property and amount claimed. Arr. alph. by name of veteran, nurse, or widow. No index. Hdw., 60 pp. 6 x 9 x 1 1/2. 11 vols., 1926-34, attic strg. room; 2 vols., 1935-, aud. rec. room.

335. FIREMEN'S EXEMPTION, 1934-. 1 f. b.

Affidavits by volunteer firemen filed to obtain municipal and poll tax exemptions, showing dates of affidavit and filing, names of fireman and city or town, and amount of exemption. Arr. chron. by date of affidavit. No index. Hdw., 11 x 5 1/2. 14. Aud. off.

TAX SALES

336. RECORD OF DELINQUENT LAND AND LOTS, 1849-69. 1 vol. (2).

Record of real property subject to sale for nonpayment of taxes, showing year and amount of delinquency; location, description, and assessed valuation of property; names of property owner and taxing unit; amounts of penalty, interest, and costs; and total due. Arr. by name of taxing unit and alph. thereunder by name of property owner. No index. Hdw., 350 pp. 13 x 13 x 2 1/4. Attic strg. room.

337. REGISTER OF TAX SALES, 1843-. 2 vols. and 1 duplicate vol., 1843-87 (1 vol. unlabeled, 1, 2).

Record of lands and lots offered for sale for delinquent taxes, showing dates of delinquency, tax sale, and redemption; names of owner and purchaser; amounts of delinquency, sale, and redemption; location and description of property; and certificate of sale number. Arr. chron. by date of sale. No index. Hdw., 400 pp. 13 x 13 x 2 1/4. Aud. off.

338. [TAX CERTIFICATE], Feb. 1928-Feb. 1940. In Miscellaneous Papers Board of Commissioners, entry 4.

Certificates of tax sales surrendered in exchange for tax deeds or redemption money, showing date of certificate and redemption period; names of owner, purchaser, and taxing unit; location and description of property; amount and condition of sale; and certificate number.

329. TAX TITLE PAPERS, 1884, 1909-. 2 f. b.

Original certificates of sale of property sold for delinquent taxes and filed with auditor to obtain tax title deed or redemption money, showing dates of sale, certificate, and filing; names of original owner and purchaser; amount of sale certificate number, and location and description of property. Arr. chron. by date of certificate. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

340. REGISTER OF AUDITORS DEEDS, 1902-8. 1 vol.

Record of tax title deeds, showing dates of tax sale certificate and deed, names of original owner, grantor and grantee, amount of tax sale, certificate number, and location and description of property. Arr. chron. by date of deed. No index. Hdw. 300 pp. 11 x 12 x 1½. Attic strg. room.

PUBLIC IMPROVEMENTS

341. CONSTRUCTION RECORD, 1923-. 1 vol.

Record of expenditures for construction projects, showing date, amount, and conditions of contract; name of contractor; name and location of project; amount and number of warrant; and name of payee. Arr. alph. by name of project. No index. Hdw. 100 pp. 18 x 14 x 1. Aud. off.

342. GRAVEL ROAD LEDGER, 1882-1926. 2 vols.

Record of receipts and disbursements for construction and maintenance of county roads, showing dates, amounts, number, and nature of receipt and warrant; names of township and road; district number; and amounts of balance. Arr. chron. by dates of receipt and warrant. Indexed alph. by name of road. Hdw. 400 pp. 17 x 12 x 2. Aud. off.

343. DITCH CLEAN OUT, 1917-. 2 f. b.

Estimates by township trustees of assessments necessary to cover costs of cleaning ditches, showing date of estimate, name and location of ditch, names of township and landowner, amount of assessment, and dates and amounts of installments. Arr. by name of t. No index. Hdw. 11 x 5 x 14. Treas. rec. room.

344. DITCH AND MISCELLANEOUS RECORDS, 1908-27. 1 vol.

Contains:

- i. Record of receipts and expenditures of ditch funds, showing dates and amounts of receipt and expenditure; names of ditch, payer, and payee; and amount of balance.

- ii. Record of receipts and expenditures of township poor fund, showing dates, nature, and amounts of receipt and expenditure, and name of township.

Arr. chron. by dates of receipt and expenditure. Indexed alph. by name of ditch and t. Hdw. 372 pp. 14 x 10 x 2. Aud. off.

OFFICIAL BONDS

345. RECORD OF TRUSTEES' AND ASSESSORS' BONDS, Apr. 6, 1868-June 9, 1900. 2 vols.

Contains:

- i. Record of assessors' bonds, showing date, amount, and conditions of bond and names of assessor, sureties, and township.
- ii. Record of township trustees' bonds, showing date, amount, and conditions of bond and names of township trustee, sureties, and township.

This is a combination of two records later kept separately: Record of trustees' bonds, entry 346; record of assessors' bonds, entry 347. Also contains: Bond record, Dec. 5, 1872-June 9, 1900, entry 33. Arr. chron. by date of bond. Indexed alph. by names of trustee and assessor. Hdw. 370 pp. 15 x 12 x 2. Attic strg. room.

346. RECORD OF TRUSTEES' BONDS, Nov. 16, 1904-Dec. 6, 1930. 1 vol. (1). April 6, 1868-June 9, 1900 in Record of Trustees' and Assessors' Bonds, entry 345.

Record of township trustees' bonds, showing information as in entry 345ii. Also contains: Bond record, Nov. 16, 1904-18, entry 33. Arr. chron. by date of bond. Indexed alph. by name of t. trustee. Hdw. 425 pp. 16 x 12 x 2. Aud. off.

347. RECORD OF ASSESSORS' BONDS, Dec. 23, 1904-March 1, 1920. 1 vol. (1). April 6, 1868-June 9, 1900 in Record of Trustees' and Assessors' Bonds, entry 345.

Record of assessors' bonds, showing information as in entry 345i. Arr. chron. by date of bond. Indexed alph. by name of assessor. Hdw. 428 pp. 16 x 12 x 2. Aud. off.

348. COUNTY OFFICIAL BONDS, 1908-. 2 f. b., 1 f. d.

Original bonds of county and township officials, showing date, amount, and conditions of bond and names of official, assessor, or trustee, and sureties. Arr. chron. by date of bond. No index. Hdw. and typed. F. b. 11 x 5 x 14; f. d. 12 x 15 x 12. Aud. off.

MISCELLANEOUS RECORDS

349. FIELD EXAMINERS REPORTS, 1910-. 1 bdl., 4 f. b.

Reports of audits of county officials' records by field examiners of State Board of Accounts, showing dates of audits, report, and filing; names of office, official, and examiners; recommendations; and statement of financial conditions of accounts. No obvious arr. No index. Typed. Bdl. 4 x 12 x 6; f. b. 11 x 5 x 14. 1 bdl., 1910-19, attic strg. room; 4 f. b., 1911-, aud. off.

350. PUBLIC WELFARE, 1936-. 3 f. b.

Contains:

- i. Copies of appointments by judge of circuit court of members to county board of public welfare, showing date of appointment; name, age, qualifications, and political affiliation of appointee; and term of appointment. Arr. chron. by date of appointment.
- ii. Copies of appointments to staff positions of public welfare department, showing dates of appointments and approval; name, title, salary, and monthly travel allowance of appointee; and list of names of eligibles from which appointee was selected. Arr. chron. by date of appointment.
- iii. Copies of claims to State Department of Public Welfare for reimbursement of burial expenses of persons who were recipients of public welfare assistance before death, showing date, amount, and number of claim; name of deceased; application number; and affidavit of certification. Arr. chron. by date of claim.
- iv. Copies of county directors' and auditors' certifications to State Department of Public Welfare of the monthly report of claims paid, showing number of pages of report, dates of report and certification, and total amount of claims paid. Arr. chron. by date of report.

For other copies of certification of claims, see entry 433.

- v. Copies of monthly financial reports by county department of public welfare to State Department of Public Welfare, showing date of report; amounts of receipts, disbursements, appropriations, and balance of welfare fund; and affidavit of certification. Arr. chron. by date of report.

- vi. Copies of schedule of aid to dependent children, showing date of schedule, application and warrant numbers, name of child, name and address of payee; amount of Federal and local allotment, and total allowance. Arr. chron. by date of schedule.

For original schedules of allowances, see entry 415i.

- vii. Copies of schedule of allowances for old-age assistance, showing date of schedule, name and address of payee, amounts of Federal and local allotment, total allowance, and application and warrant numbers. Arr. chron. by date of schedule.

For original schedules of allowances, see entry 415i.

- viii. Copies of vouchers received from State for reimbursement of State's portion of burial expenses of persons who were recipients of public welfare before death. Arr. chron. by date of voucher.

Also contains: Public welfare claims, entry 15. No index. Typed. 11 x 5 x 14. Aud. off.

251. UNEMPLOYMENT RELIEF REPORTS, 1933-. 1 f. d.

Contains:

- i. Copies of auditor's monthly reports to Indiana Unemployment Relief Commission, showing date of report, population of county, number of active and closed relief cases, total receipts and disbursements of poor fund by townships, balance of poor fund and amount of claims outstanding.
- ii. Copies of bank's monthly intangible tax report to treasurer, showing dates of report and filing, number of shares, amounts of capital stock and undivided profits, assessed value of real estate owned, total amount of deposit subject to taxation, and name of bank.
- iii. Treasurer's reports to auditor of intangible stamp tax sales, showing date, denomination, and quantity of stamps received, sold, and in stock; amounts withdrawn and sold, and total amount of stamps on hand by denominations at beginning and end of day.

Arr. chron. by date of report. No index. Typed. 12 x 15 x 27. Aud. off.

352. [ASSISTANCE TO DEPENDENT CHILDREN], 1936-. 1 f. d.

Contains:

- i. Copies of certificates of award of assistance for aid to dependent children, showing date of certificate; name, age, sex, and date and place of birth of child; application number; name and ad-

dress of applicant; and amount of award.

For original certificates of award, see entry 421.

- ii. Copies of certificates of change of award of assistance for aid to dependent children, showing date; number of certificate; name and address of applicant; name of child; amounts of original and amended award; and reason for change.

For original certificates of change of award, see entry 421.

Arr. alph. by name of child. No index. Typed. 12 x 15 x 27. Aud. off.

353. OLD AGE ASSISTANCE CERTIFICATES, 1936-. 1 f. d.

Documents pertaining to old-age assistance, consisting of:

- i. Copies of certificates of award for old-age assistance, showing date of certificate; name, age, and address of recipient; application number; and amount of award.

For original copies of certificates of award, see entry 413.

- ii. Copies of certificates of change of amount of award for old-age assistance, showing date of certificate, name of recipient, amounts of original and amended award, application number, and reason for change.

For original copies of certificates of change of award, see entry 413.

- iii. Copies of certificates of withdrawals of old-age assistance, showing name, age, and address of recipient; date of certificate; amount of award; and reason for withdrawal.

For original certificates of withdrawals of assistance, see entry 413. Arr. alph. by name of recipient. No index. Typed. 12 x 15 x 27. Aud. off.

354. PROOF OF PUBLICATION, 1919-. 3 f. b.

Newspaper clippings of legal notices to taxpayers and publishers' statement of publication, showing date of notice, name of publisher, cost of advertising, and copy of notice. Arr. chron. by date of notice. No index. Hdw. and ptd. 11 x 5 x 15. Aud. off.

355. ENUMERATION OF WHITE AND COLORED MALES, 1925, 1931, 1937. 29 vols.

Sexennial enumeration of white and colored male inhabitants, 21 years of age or over, showing date of enumeration; name, age, address, and color of male; and names of township and assessor. Arr. alph. by name of male. No index. 50 pp. 14 x 9 x 1½. 9 vols., 1925, pub. welf. off.; 10 vols., 1931, attic strg. room; 10 vols., 1937, aud. off.

MAPS

356. WELLS COUNTY, 1932. 1 map.

Communication and land tenure map, showing date of map; county and township boundary lines; Congressional township, section and range lines and numbers; names of civil townships; plat of each tract outside of cities and towns; number of acres and name of owner; names and locations of cities, towns, and villages; plats of cities and towns; locations of highways, streams, railroads, and schools; and State highways and rural route numbers. Drawn by James T. Redding. Scale: 2" to 1 mi. 62 x 50. Aud. off.

357. BLUFFTON, 1909. 1 map.

Communication map of Bluffton, showing additions, subdivisions, lot numbers, and names and locations of streets, factories, public buildings, streams, and railways. Drawn by Fred Davenport and Walter Browngardner. Blueprint. Scale: 1" to 200'. 48 x 48. Aud. off.

XXVIII. REGISTRATION OFFICER

LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Wells County under the requirements of acts of 1933, 1935, and 1941.¹

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected in equal numbers from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. A list of all deputy registration officers is kept in the office of the clerk of the circuit court and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.²

¹ Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7304(a).

² *Ibid.*

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount (fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.⁵

The Constitution prescribes the qualifications of voters.⁶ An amendment of the Constitution in 1881 directed the General Assembly to provide for the registration of all persons entitled to vote, and an amendment in 1926 authorized, but did not require, such registration laws.⁷

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustees and two freeholders appointed by the board of commissioners,⁸ was repealed in 1869.⁹ Acts of 1869¹⁰ and 1891,¹¹ providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890¹² and 1892,¹³ respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),¹⁴ was repealed in 1917.¹⁵ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one

⁵ Acts 1867, 1885, 1941, Burns, 1941 suppl., 2-306(a), 29-329; Baldwin, 1941 suppl., 726(a), Baldwin, 1935 suppl., 7327.

⁶ Const. 1851, art. 2, sec. 2.

⁷ *Ibid.*, sec. 14 (as amended in 1881 and 1926).

⁸ Acts 1867, ch. 51, sec. 2.

⁹ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

¹⁰ Acts 1869, ch. 87, sec. 13.

¹¹ Acts 1891, ch. 144, sec. 1.

¹² *Morris v. Powell*, 125 Ind. 281, 25 N. E. 221 (1890).

¹³ *Brewer v. McClelland*, 144 Ind. 423, 32 N. E. 299 (1892).

¹⁴ Act 1911, ch. 110, secs. 3-15.

¹⁵ Act 1917, ch. 139, sec. 47.

from each of the two major political parties),¹⁴ was repealed in 1919.¹⁵ An act of 1919, creating precinct registration boards,¹⁶ was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁷ and both acts were repealed in 1927.¹⁸ Acts of 1933, 1935, and 1941 established the present system of registration.¹⁹ There was no registration system from 1869 until 1889, 1892 until 1911, and 1927 until 1933.

FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the State may participate. Such registration must be made at least 29 days before the election.²⁰ On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the State 6 months, in the township 60 days, and in the ward or precinct 30 days.²¹

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²² The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference

¹⁴ *Ibid.*, sec. 4.

¹⁵ Acts 1919, ch. 150, sec. 1.

¹⁶ *Ibid.*, ch. 186, sec. 4.

¹⁷ Acts 1925, ch. 138, sec. 1.

¹⁸ Acts 1927, ch. 197, sec. 1.

¹⁹ Acts 1933, ch. 178. Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-306, 29-309, 29-311 to 29-314; Baldwin, 1941 suppl., 7304, 7307, 7309 to 7312.

The 1933 act was constitutional. *Blue v. State ex rel. Brown*, 206 Ind. 98, 188 N. E. 583 (1934).

²⁰ Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns 1941 suppl., 29-336; Baldwin, 1935 suppl., 7334.

²¹ Acts 1933; Burns 29-328; Baldwin 7326.

²² Acts 1933, 1935, 1941; Burns, 1941 suppl., 29-305(a), 29-309; Baldwin, 1941 suppl., 7304(a), 7307.

Manner of registering. Acts 1933; Burns 29-308, 29-310; Baldwin 7305, 7308. Acts 1933, 1941. Burns, 1941 suppl., 29-302, 29-311 to 29-313; Baldwin, 1941 suppl., 7307, 7309 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933; Burns 29-339; Baldwin 7337.

to precincts.²³ They can administer all oaths required by the registration laws.²⁴ Every voter who desires to register must execute an affidavit before a registration official setting forth the required information pertaining to his qualifications as a voter.²⁵

The "official registration books" consist of the original affidavits of registration²⁶ and constitute permanent registration record. The clerk also keeps a duplicate set of these affidavits.²⁷ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.²⁸ Registration supplies and the original affidavits of registration are delivered by the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.²⁹

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this State after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county and precinct in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the State and (c) his registration is not canceled.³⁰ The clerk will cancel the registration of any voter who requests such cancellation.³¹

²³ Acts 1927, 19 5; Burns, 1941 suppl., 29-315; Baldwin, 1945 suppl., 7309.

²⁴ Acts 1935, 1275, 1344; Burns, 1941 suppl., 29-306(a); Baldwin, 1941 suppl., 7704(a).

²⁵ Acts 1901; Burns 29-311; Baldwin 311.

²⁶ Acts 1901; Burns 29-316; Baldwin 734.

²⁷ Acts 1927; Burns 29-302, 29-315; Baldwin 700, 7213.

²⁸ Acts 1932, 19 3; Burns, 1941 suppl., 29-31; Baldwin, 1945 suppl., 7215.

²⁹ Acts 1927, 1941; Burns, 1941 suppl., 29-311; Baldwin, 1941 suppl., 7329. Acts 1922.

Burns 29-316; Baldwin 314.

³⁰ Acts 1933; Burns 29-30, 29-33; Baldwin 707, 776. Information obtained from Fred A. Cline, naming as State Beer and Election Commissioners, on December 10, 1940, by William F. Chambers.

³¹ Acts 1927, 1941; Burns, 1941 suppl., 29-32; Baldwin, 1941 suppl., 7325. Acts 1922; Burns 29-324; Baldwin 7322.

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If the voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.³²

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.³³

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.³⁴

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.³⁵

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which

³² Acts 1903, 1935; Burns, 1941 suppl., 29-314; Baldwin, 1935 suppl., 7312.

³³ Acts 1903, Burns 29-318, 29-319, Baldwin 73 6, 7317.

³⁴ Acts 1911, 1941; Burns, 1941 suppl., 29-327; Baldwin, 1941 suppl., 7325. Acts 1933; Burns 29-326; Baldwin 7324.

³⁵ Acts 1903, 1909, Burns, 1941 suppl., 29-320; Baldwin, 1929 suppl., 7328.

he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.³⁶

During the month of January following such general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be cancelled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.³⁷

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.³⁸

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or inaccessible or are for any other reasonable cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.³⁹

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.⁴⁰

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the State Board of Election Commissioners for the purpose of uniformity in the registration records of the State.⁴¹

³⁶ Acts 1899, 1911, Burns, 1941 suppl., 29-327, Baldwin, 1941 suppl., 7325, Acts 1933; Burns 29-325; Baldwin 7-23.

³⁷ Acts 1-33, 1911; Burns, 1941 suppl., 29-320, Baldwin, 1941 suppl., 7318.

³⁸ Acts 1923, 1941; Burns, 1941 suppl., 29-321, 29-317, Baldwin, 1941 suppl., 7319, 7325 Acts 1937; Burns 29-322 Baldwin 7320.

³⁹ Acts 1-33; Burns 29-404, Baldwin 7302.

⁴⁰ Acts 1-33, Burns 29-405, Baldwin 7303.

⁴¹ Acts 1923, Burns 29-374, Baldwin 7-22.

358. [PRECINCT BINDERS], 1934-. 59 vols.

Original registration cards of all voters in county, showing date of registration; name, age, sex, address, place of birth, and period of residence in township and precinct number of voter; names of registration officer, witnesses, and township; affidavit of voter; record of voting; political affiliation according to ballot used in last primary election; and registration, precinct, and ward numbers. Arr. alph. by name of voter. No index. Hdw. and typed. 100 pp. $14\frac{1}{2}$ x 10 x $1\frac{1}{2}$. Clk. anteroom.

359. REGISTRATION, 1934-. 3 f. d. (A-Go, Gra-My, Na-Z).-

Duplicate copies of original registration cards, showing information as in entry 358. Arr. alph. by name of voter. No index. Hdw. and typed. 6 x 22 x 27. Clk. rec. room.

360. REGISTRATION BOOK FOR AUSTRALIAN VOTING PRECINCT, 1920. 53 vols.

Record of registered voters, showing dates of registration board meetings and registration precinct number; name, age, place of birth, address, and naturalization data of voter; registration number; and names of registration board members. Arr. numer. by precinct no. and numer. thereunder by registration no. Indexed alph. by name of voter. Hdw. 30 pp. 16 x 14 x $\frac{1}{2}$. Clk. off.

361. INTENTION TO BECOME AN ELECTOR, 1890-92. 1 vol. (1).

Record of electors' notices of intention to hold residence, showing date of notice; name, age, and address of elector; names of township and city or town; and ward and precinct numbers. Arr. alph. by name of voter. No index. Hdw. 200 pp. 18 x 13 x $\frac{1}{2}$. Attic strg. room.

XXIX. BOARD OF PRIMARY ELECTION COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The board of primary election commissioners has existed in Wells County ever since 1915 under the requirements of an act of 1915. The board is composed of the clerk of the

circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen). The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment, must serve as members of the county board of canvassers and county board of election commissioners during the calendar year in which they were appointed,³ must not hold any other appointive or elective public office,⁴ and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.⁵ Each member of the board is allowed \$75 for his services at any primary election.⁶

For sufficient legal causes any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.⁹

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly of

¹ Acts 1915, 1917; Burns 29-504, Baldwin 7150. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

² Const. 1851, art. 6, secs. 4, 6.

³ Acts 1915, 1917; Burns 29-504; Baldwin 7150. Acts 1905, 1927; Burns 29-1401; Baldwin 7577. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

⁴ Acts 1915, 1917; Burns 29-512, Baldwin 7198.

⁵ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852, Burns 49-101, Baldwin 13054.

⁶ Acts 1915, 1917, Burns 29-504, Baldwin 7150. Acts 1925, Burns, 1941 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (7d) 122 (1926).

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-8-6, Baldwin 13111 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899, Burns 49-834; Baldwin 13050.

⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

official delegates chosen by the electors of the party at primary elections.¹⁰

Indiana was one of the first States to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.¹¹

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.¹²

An act of 1907 prescribed a direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. The act was mandatory in each county containing cities having a population of 36,000 or over, and was optional in other counties. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹³

¹⁰ Alma Sickler Bender, *Why Go Back . . . from the Direct to the Convention System of Nomination*, p. 21.

¹¹ Acts 1889, ch. 87, secs. 17, 18, 26.

¹² Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

¹³ Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for Secretary of State 10 percent of the aggregate vote cast in the county for all candidates for Secretary of State at the last preceding general election. This law provides for the nomination of Congressional, county, township, and city candidates and the election of precinct committeemen and State convention delegates of all such political parties, all in one primary election held biennially, at the same time and place, on the first Tuesday after the first Monday in May, in the even-numbered years.¹⁴

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries),¹⁵—the names of candidates being arranged thereon in alphabetical order.¹⁶ At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.¹⁷

Between 30 and 60 days before any primary election the declaration of candidacy for the office of United States Representatives, State Senators and Representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the Secretary of State and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.¹⁸

¹⁴ Acts 1915, Burns 29-501, Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512, Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1941 suppl., 29-532, Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State ex rel. Democratic Central Committee v. Superior Court, 214 Ind. 322, 15 N. E. (2d) 379 (1938).

¹⁵ Acts 1915, 1917; Burns 29-504, Baldwin 7190.

¹⁶ Acts 1915, 1937; Burns, 1941 suppl., 29-515, Baldwin, 1937 suppl., 7201.

¹⁷ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

¹⁸ Acts 1915; Burns 29-501, Baldwin 7187. Acts 1915, 1917, 1933, 1935, 1941; Burns, 1941 suppl., 29-513, Baldwin, 1941 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1941 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1915, 1929, Burns 29-511, Baldwin 7217. Acts 1927, Burns 29-1807, Baldwin 11639.

The prosecuting attorney is a judicial officer. State ex rel. Freed v. Circuit Court, 214

Nominations for delegates to the State conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.¹⁹

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for Secretary of State at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriff and pollbook holders are appointed in the manner in which they are appointed for general elections. Each of these officials except pollbook holders is allowed \$3 per day for his services rendered in connection with a primary election. The pollbook holders are paid by their respective political parties in a sum not to exceed \$3 per day.²⁰ The board of primary election commissioners may employ all necessary clerical assistants.²¹

The statutory provisions governing the manner of conducting general elections apply to all primary elections.²² All expenses of conducting primary elections are paid from public funds.²³

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.²⁴

Ind. 152, -14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1070 (1938).

¹⁹ Acts 1915, 1939; Burns, 1941 suppl., 29-532; Baldwin, 1939 suppl., 7218.

²⁰ Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933, 1941; Burns, 1941 suppl., 29-504; Baldwin, 1941 suppl., 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096. *Finerty v. Bryan*, 214 Ind. 570, 16 N. E. (2d) 882 (1938). See the essay entitled "County Board of Election Commissioners."

²¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

²² Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²³ Acts 1915; Burns 29-524; Baldwin 7210. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1897, 1901, 1909, 1941; Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 7147. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

362. ABSENT VOTERS RECORD, 1918-20, 1924-26, 1936-. 3 vols. (1, 3; 1 vol. unlabeled).

Record of ballots cast by absentee voters in primary elections, showing dates of application, mailing and receiving of ballot, and election; name and home address of absentee voter; name of township; precinct and ward numbers; and temporary address of absentee voter. Also contains: Absent voters' record, entry 372. Arr. by name of t. and numer. thereunder by precinct no. No index. Hdw. 300 pp. 14 x 15 x 2. 2 vols., 1918-20, 1924-26, attic strg. room; 1 vol., 1936-, clk. rec. room.

363. DECLARATION OF DEMOCRATIC CANDIDATES, 1920-32. 2 f. b.

Declarations of Democratic candidates of their intention to seek nomination, showing information as in entry 364. No obvious arr. No index. Hdw. 12 x 15 x 12. Clk. rec. room.

364. DECLARATION OF REPUBLICAN CANDIDATES, 1920-32. 1 f. b.

Declarations by Republican candidates of their intention to seek nomination, showing date of declaration and names of candidate, office sought, and political party. No obvious arr. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

365. PETITIONS FOR NOMINATION DELEGATE STATE CONVENTION, 1920-. 2 f. b.

Voters' petitions to place names of persons to be candidates for delegates at State convention, showing dates of petition and filing and names of petitioners, candidate, and party. Arr. chron. by date of petition. No index. Hdw. 12 x 5 x 12. Clk. rec. room.

366. CANDIDATES EXPENSE, 1916-. 3 f. b.

Statements of primary election expenses filed by candidates for various public offices, showing dates of election, statement, and filing; names of candidate, office sought, and party; itemized statement of campaign expenses and total. Also contains: Statements of general election expenses, entry 373. Arr. chron. by date of statement. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

367. CERTIFICATE OF NOMINATION, 1922, 1930. 1 f. b.

Certificates of nomination of candidates, showing dates of election and certificates, name and political affiliation of candidate, name of office, and certification of nomination. Arr. chron. by date of certificate. No index. Hdw. and typed. 12 x 15 x 12. Clk. rec. room.

368. [AFFIDAVITS OF PRIMARY ELECTION INSPECTORS], 1930-

In Dealers License to Sell Firearms, entry 62.

Oaths of primary election inspectors, showing date of oath, name and political affiliation of inspector, and oath.

XXX. COUNTY BOARD OF CANVASSERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of canvassers has existed in Wells County ever since 1843 under the requirements of acts of 1843, 1852, 1881, and 1905. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election with no additional remuneration. From 1843 until 1905 the board was composed of the election inspectors of the several townships. The board has always designated one of its members to serve as chairman; and the clerk of the circuit court has always acted as its clerk.¹

FUNCTIONS AND RECORDS

Each precinct board of election,² after closing the polls in its precinct,³ views the ballots cast in that precinct; count those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.⁴ Information as to the results of the counting of ballots by each precinct board, as shown by its certificate delivered to the clerk of the circuit court, is immediately furnished by the clerk to newspaper reporters and editors.⁵

¹ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, secs. 37-43. Acts 1905, 1927; Burns 29-1401, 29-1402; Baldwin 7377, 7378. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

² The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

³ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁴ Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1816-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. L. 1824, ch. 35, secs. 11, 12. Rev. L. 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14. Acts 1897, 1901, 1909, 1941; Burns 1941 suppl., 29-1301; Baldwin, 1941 suppl., 7147.

⁵ Acts 1941; Burns, 1941 suppl., 29-1412; Baldwin, 1941 suppl., 7157-1.

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers returned by each precinct board of election in the county;⁶ to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates nominated or elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.⁷

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk must certify the facts to the tribunal or officer required to fill vacancies in such office or to issue a writ of election to fill the office, as the case may require.⁸ In case of a tie vote, a city office is filled by appointment,⁹ a township office is filled by lot,¹ and other offices are filled by special elections.¹¹

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.¹²

⁶ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁷ Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7381, 7383. *Moore v. Kessler*, 59 Ind. 152 (1877).

Duty to disregard ballots improperly marked by voters. *Crane v. Traylor*, 214 Ind. 512, 16 N. E. (2d) 845 (1938).

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505, Baldwin 7180 to 7182.

Judges, prosecuting attorney, State officers, and Federal officers. Acts 1881 (Spec. Sess.); Burns 29-1506 to 29-1509; Baldwin 7183 to 7186.

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201, 29-1202; Baldwin 7219, 7258. Acts 1911, Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. *In re Todd*, 208 Ind. 168, 193 N. E. 865 (1935).

⁸ Acts 1805, Burns 29-1405; Baldwin 7382.

The vote for State Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1505, Baldwin 7182.

⁹ Acts 1901, 1909; Burns 43-1246; Baldwin 11424.

¹⁰ Acts 1793; Burns 29-1903; Baldwin 7352.

¹¹ Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701; Baldwin 7182, 7249.

¹² Acts 1905, Burns 29-1409; Baldwin 7385.

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.

The board of canvassers employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.¹⁴

The canvass of votes in primary and special elections, including votes cast for city and township officers, is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, pollbooks, and tally papers are delivered by the county board of canvassers to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months unless litigation requires longer preservation.¹⁵

369. TOWN ELECTIONS, 1894-1929. 1 i. b.

Copies of certificates of election of candidate in incorporated town elections, showing dates of election and certificate; names of candidate, office, town, and inspectors; and certification of election. Arr. chron. by date of certificate. No index. Hdw. and typed. 12 x 5 x 12. Clk. rec. room.

370. LIST OF TOWN OFFICERS, 1898-1933. 1 vol.

Contains:

- i. Record of appointments of town marshalls, policemen, and city engineers, showing date and nature of appointment, and name of appointee. Arr. chron. by date of appointment.
- ii. Record of votes cast in town elections, showing date of election; names of town, political party, office, and candidate; ward number; number of

¹³ Acts 1907; Burns 29-1408; Baldwin 7284

¹⁴ Acts 1910 (Spec. Sess.); Burns 29-912; Baldwin 7138.

¹⁵ Acts 1917, 1917; Burns 29-555; Baldwin 7211. Acts 1915, Burns 29-560; Baldwin 7245.

¹⁶ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

¹⁷ Acts 1888, 1891; Burns 29-1612; Baldwin 7170. Acts 1917, Burns 29-1303, 29-1807, Baldwin 11625, 11639.

¹⁸ Acts 1921; Burns 29-1907; Baldwin 7232.

¹⁹ Acts 1918; Burns 29-1301, Baldwin 7126. Acts 1905; Burns 29-1401; Baldwin 7210.

votes cast for each candidate; and total votes cast. Arr. chron. by date of election.

Indexed alph. by name of town. Hdw. 200 pp. 16 x 12 x 1 1/2. Clk. off.

XXXI. COUNTY BOARD OF ELECTION COMMISSIONERS

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of election commissioners has existed in Wells County ever since 1889 under the requirements of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairman).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment, must serve as members of the county board of canvassers, and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.² Each member of the board is allowed \$75 for his services at any general or special election.³

For sufficient legal causes any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person.⁴ If any member be convicted of a felony the judgment of conviction must declare his office vacant.⁵ The clerk of the

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const. 1851, art. 6, secs. 4, 6.

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101, Baldwin 12054. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court see the essay entitled "Clerk of the Circuit Court."

⁴ Acts 1885; Burns, 1911 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1. Op. Atty. Gen. 1935, p. 320.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

⁵ Const. 1851, art. 2, sec. 6, 7, art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13151 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

circuit court fills vacancies as to members appointed by him.⁷

With the organization of Wells County in 1837⁸ the board of county commissioners laid off townships⁹ and appointed an inspector of elections in each.¹⁰ Later the inspectors were elected by the township voters.¹¹ Blank forms of pollbooks and election returns were delivered by the sheriff to these inspectors before the election.¹² After 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which offices were to be filled at the election. The sheriff posted a copy of this certificate at each usual place of holding elections, published it in some newspaper of the county, and delivered a copy to each township trustee¹³ or to the township clerk (to be delivered to the township trustee).¹⁴ The board of county commissioners designated the precincts,¹⁵ and furnished supplies (including blank forms and ballot boxes but not ballots).¹⁶ After 1831 the auditor furnished printed forms (but not ballots)¹⁷ and the board of county commissioners furnished the ballot boxes.¹⁸ Before 1839 voting was by ballot furnish by the voter.¹⁹ The president of

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

⁸ Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

⁹ Acts 1816-17, ch. 14, sec. 3. Acts 1817-18 (general), ch. 17, sec. 2. Acts 1819-20, ch. 21, sec. 1. Rev. L. 1824, ch. 36, sec. 4. Rev. L. 1831, ch. 33, sec. 4. Rev. Stat. 1838, ch. 34, sec. 5. Rev. Stat. 1843, ch. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1.

¹⁰ Acts 1816-17, ch. 9, sec. 1; ch. 26, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. L. 1824, ch. 15, sec. 7; ch. 35, sec. 1; ch. 36, sec. 5. Rev. L. 1831, ch. 10, sec. 20, ch. 34, sec. 5. Acts 1832-33, ch. 70, sec. 15. Rev. Stat. 1838, ch. 21, secs. 10, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, sec. 4.

¹¹ Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, sec. 20. Rev. Stat. 1843, ch. 4, sec. 26; ch. 5, sec. 71.

¹² Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. L. 1824, ch. 5, sec. 1.

¹³ Acts 1831 (Spec. Sess.); Burns 29-702; Baldwin 7022.

¹⁴ 1 Rev. Stat. 1852, ch. 21, sec. 2.

¹⁵ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1851 (Spec. Sess.), ch. 47, sec. 8.

¹⁶ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

¹⁷ Acts 1831 (Spec. Sess.), ch. 47, sec. 13.

¹⁸ *Ibid.*, sec. 18.

¹⁹ Const. 1856 art. 6, sec. 2. Const. 1851, art. 2, sec. 1. Acts 1816-17, ch. 9, secs. 6, 7. Acts 1817-18 (general), ch. 15, sec. 8. Rev. L. 1824, ch. 35, secs. 6-8, 11. Rev. L. 1831, ch. 32, secs. 6-8, 11. Rev. Stat. 1838, ch. 22, secs. 6-8, 12. Rev. Stat. 1843, ch. 5, secs. 20-23, 40, 41, 44. Rev. Stat. 1852, ch. 31, sec. 17. Acts 1851 (Spec. Sess.), ch. 47, sec. 13.

the board of township trustees from 1853 to 1859²⁰—the township trustee since 1859—served ex officio as inspector of elections²¹ in the precinct in which he resided,²² and the board of county commissioners appointed inspectors in all additional precincts.²³ The election board of the precinct was composed of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²⁴ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁵

For special elections under the former local option liquor laws, there was authorized in the county from 1908 to 1917 a special election commission consisting of the county auditor and two freeholders, appointed by the board of commissioners, one appointee favoring and the other opposing the sale of liquors.²⁶

Indiana, in 1839, was one of the first States to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁷

FUNCTIONS AND RECORDS

The constitution fixes the date of general elections as the first Tuesday after the first Monday in November,²⁸ and an act of the General Assembly provides that they be conducted biennially in the even-numbered years.²⁹ At least 20 days before the election the clerk of the circuit court makes a certificate stating which offices are to be filled

²⁰ 1 Rev. Stat. 1852, ch. 31, sec. 3.

²¹ Acts 1859, Burns 65-105, Baldwin 16065. *Holmes v. Board of County Comrs.*, 78 Ind. App. 206, 135 N. E. 154 (1922).

²² Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

²³ 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11.

²⁴ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁵ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁶ Acts 1908 (Spec. Sess.), ch. 2, secs. 5-7. Acts 1911, ch. 7, secs. 5-8. These laws were repealed by Acts 1917, ch. 4, sec. 40.

²⁷ Acts 1839, ch. 87, secs. 17, 18, 26.

²⁸ Const. 1851, art. 2, sec. 14 (as amended in 1881).

²⁹ Acts 1881 (Spec. Sess.), Burns 29-701, Baldwin 7081.

at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.^{§ 5} The constitution further provides that all elections by the people must be by ballot.^{§ 1} This provision does not prevent the use of voting machines^{§ 6} (to be provided by the board of county commissioners).^{§ 8}

The board of county commissioners establishes the precincts^{§ 2} and provides all polling places, voting booths, chutes, and ballot boxes;^{§ 5} and the auditor furnishes blank pollbooks and other forms to the inspectors.^{§ 6}

The county board of election commissioners supervises general elections.^{§ 7} The State Board of Election Commissioners prepares and distributes to the county clerks the ballots for Federal offices, and for offices and questions to be voted on by the voters of the whole State. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).[§] Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the State at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party

^{§ 5} Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake*, 102 Ind. 90, 3 N. E. 382 (1884).

^{§ 1} Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor*, 214 Ind. 512, 16 N. E. (2d) 845 (1938).

^{§ 2} *Spickerman v. Goddard*, 182 Ind. 523, 167 N. E. 2 (1914).

^{§ 3} Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

^{§ 4} Acts 1889; Burns 29-801; Baldwin 7089. Acts 1900 (Spec. Sess.); Burns 29-901; Baldwin 7091.

^{§ 5} Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

^{§ 6} Acts 1889; Burns 29-898; Baldwin 7057.

^{§ 7} Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7174. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

^{§ 8} Acts 1889; Burns 29-1001 to 29-1007, Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1103; Baldwin 7124. *Op. Atty. Gen.* 1940, p. 168.

Ballot label for voting machines. Acts 1901; Burns 29-2410, Baldwin 7358.

emblems. Candidates' names may be placed on the ballot by the petition of the required number (one half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁹ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, State, or National Government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.⁴⁰

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election, or is a candidate or a relative of a candidate at that election, or is an elected or appointed public official. The township trustee is ex officio inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for Secretary of State in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.⁴¹ For their services at general elections the precinct election officials may be compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. A greater amount may be allowed if provision therefor is made by the board of county commissioners at least 15 days before the election. The township trustee receives no compensation for his services as election inspector.⁴² Each political party may appoint one challenger and

³⁹ Acts 1897, 1919, 1933, Burns 29-1106, Baldwin 7120. Acts 1950 (Spec. Sess.), Burns 29-1107, Baldwin 7121. Board of Election Comrs. v. State ex rel. Sides, 148 Ind. 675, 48 N. E. 226 (1897); State ex rel. Garn v. Board of Election Comrs., 167 Ind. 276, 78 N. E. 1016 (1906).

⁴⁰ Acts 1945, 1941, Burns, 1941 suppl., 29-1015, Baldwin 1941 suppl., 7120-1.

⁴¹ Acts 1915, 1917; Burns 29-512, Baldwin 7198. Acts 1920, 1943, 1941, Burns, 1941 suppl., 29-801, Baldwin, 1941 suppl., 7092. Acts 1949; Burns 29-505 to 29-807, Baldwin 7094 to 7096.

⁴² Acts 1946 (Spec. Sess.), 1933, 1941; Burns, 1941 suppl., 29-910, Baldwin, 1941 suppl., 7155. Holmes v. Board of County Comrs., 78 Ind. App. 206, 135 N. E. 154 (1922).

one pollbook holder for each precinct, and may pay each of them compensation not exceeding \$3. These employees receive no compensation from public funds.⁴³

Since 1933 city⁴⁴ and township elections have been held at the time of the general election.⁴⁵ They are under the supervision of the county board of election commissioners,⁴⁶ as are all special elections.⁴⁷

Elections are open from 6 o'clock in the forenoon until 4 o'clock in the afternoon, after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 o'clock in the afternoon unless previously closed as aforesaid.⁴⁸ All pencils used in marking the ballots must be destroyed before the counting of ballots begins.⁴⁹

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.⁵⁰

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.⁵¹

371. ELECTION RECORD, 1890—. 2 vols. (1, 2).

Contains:

- i. Record of ballots printed, distributed, and returned, showing date of election; number of ballots printed, distributed, and returned; names of

⁴³ Acts 1929; Burns 29-806; Baldwin 7655.

⁴⁴ Acts 1889, 1891; Burns 29-1612; Baldwin 7176. Acts 1913; Burns 29-1801; Baldwin 11632.

⁴⁵ Acts 1913, 1935; Burns, 1941 suppl., 29-1941; Baldwin, 1935 suppl., 7250.

⁴⁶ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁷ Acts 1881; Burns 29-1611; Baldwin 7169. Acts 1881, Burns 29-1704, Baldwin 7249.

⁴⁸ Acts 1915, Burns 29-510; Baldwin 7106. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁴⁹ Acts 1915; Burns 29-1305; Baldwin 7457.

⁵⁰ Acts 1905; Burns 29-1408; Baldwin 7384.

⁵¹ Rev. L. 1884, ch. 35, sec. 14. Acts 1929 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1006; Baldwin 7113. Acts 1897, 1901, 1909, 1941, Burns, 1941 suppl., 29-1301; Baldwin 1941 suppl., 714. Acts 1915, Burns 29-1304; Baldwin 7476. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State ex rel. Kollmeier v. Baker, 204 Ind. 18, 182 N. E. 537 (1932).

inspector and township; and ward and precinct number.

- ii. Record of number of votes cast in primary and general elections, showing date of election; names of inspector, township, political parties, office sought, and candidate; ward and precinct numbers; number of votes cast for each candidate by townships, wards, and precincts, and total; and certifications by inspector.

Arr. chron. by date of election. No index. Hdw. and typed. 600 pp. 18 x 16 x 3. Clk. rec. room.

372. [ABSENT VOTERS RECORD], 1918-20, 1924-26, 1936-. 1.
Absent Voters Record, entry 362.

Record of ballots cast by absentee voters in general elections, showing information as in entry 362.

373. [STATEMENTS OF GENERAL ELECTION EXPENSES]. 1916-.
In Candidates Expenses, entry 366.

Statements of general election expenses, filed by candidates for various public offices, showing information as in entry 366.

374. [ELECTION CERTIFICATES], May 1936-. In Miscellaneous Papers Board of Commissioners, entry 4.

Copies of certificates of election of county officials, showing dates of election and certificate; names of candidate, office, and inspector; and certification of election.

375. [RECEIPT OF BALLOTS], April 1933. 1 vol.

Record of receipts of election inspectors for ballots received, showing date of receipt, name of inspector and township, precinct number and kind of ballots received. Arr. by name of and numer. thereunder by precinct no. No index. Hdw. 100 pp. 11 x 8 x 1. Clk. rec. room.

XXXII. COUNTY BOARD OF EDUCATION

EVOLUTION AND STRUCTURAL ORGANIZATION

The county board of education has existed in Wells County ever since 1873 under the requirements of acts of 1873 and 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before

1877 all the school trustees of each city and town in the county were also included as members of the board.¹

Semiannual meetings of the board are held at the office of the county superintendent of schools on the first day of May and September, except that if such day is Sunday the meeting is held the next day. Other meetings may be held upon the call of the county superintendent. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.²

FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and others supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The State Board of Education has broad power to adopt textbooks which must be used in all the public schools in the State, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the State Board. No textbook can be changed by the county board of education

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. Op. Atty. Gen. 1913, p. 551.

Section 28-801 aforesaid provides: "The county superintendent [of schools], the trustees of the townships and the chairman of the school trustees of each town and city of the county shall constitute a county board of education."

Section 28-1201 aforesaid provides that the common council of each city and the board of trustees of each town shall "elect three school trustees" and that "such trustees shall constitute the school board of the city or town" and that "they shall . . . organize by electing one of their number president, one secretary and one treasurer."

The cited opinion of the Attorney General holds that the language "chairman of the school trustees of each town and city of the county" refers to the president of the town school board or city school board.

² Acts 1873, 1877; Burns 28-801; Baldwin 5983. Fassett A. Cotton, *Education in Indiana 1793 to 1934*, p. 257.

within 6 years after its adoption, except by the unanimous vote of all the members of the board.⁵

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.⁴

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no such appointment.⁵ Each year the board selects one of its members to serve on the county board of tax adjustment.⁶

Formerly the board participated in the appointment of a county agricultural agent and approved the expenses of the agent.⁷

The secretary of the board keeps a complete record of its meetings and proceedings.⁸

376. MINUTE RECORD COUNTY BOARD OF EDUCATION, 1876-91, May 1905-. 3 vols.

Minutes of meetings of board of education, showing date of meeting, names of members present, business discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 1876-91, May 1905-6, Aug. 1921-; typed 1907-July 1921. 200 pp. 12 x 8 x 1. 2 vols., 1876-91, May 1905-Aug. 12, 1929, attic strg. room; 1 vol., Aug. 22, 1929-, supt. off.

⁵ *Ibid.* Acts 1889, 1909, 1917, Burns 24-601; Baldwin 6675. Information obtained from Floyd L. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.

⁴ Acts 1921; Burns 28-614, Baldwin 6692. Acts 1935; Burns, 1941 suppl., 28-658; Baldwin, 1935 suppl., 6592-1.

⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 1. Acts 1913, ch. 213, sec. 4. Acts 1921-1932 (Spec. Sess.), Burns 28-501; Baldwin 6693.

Traveling expenses of attendance. Op. Atty. Gen. 1939, p. 132.

⁶ Acts 1937, Burns, 1941 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷ Acts 1911, ch. 24, sec. 12. Superseded by Acts 1937, Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6157.

⁸ Information obtained from Floyd L. McMurray, State Superintendent of Public Instruction, on February 2, 1940, by W. Davis Hamilton.

377. RECORD BOARD OF EDUCATION, June 4, 1913-. 1 vol. Record of elections of county superintendents of schools by township trustees, showing date of election, names of trustees and candidates, number of votes cast for each candidate, and name of superintendent elected. Arr. chron. by date of election. No index. Hdw. 250 pp. 12 x 9 x 1. Aud. off.

XXXIII. COUNTY SUPERINTENDENT OF SCHOOLS

LEGAL STATUS

The office of county superintendent of schools (known as "county superintendent" before 1927) has existed in Wells County ever since 1873 under the requirements of acts of 1873 and 1899.¹ The county superintendent of schools is elected for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.² To be eligible for this office a person must have had 3 years' successful experience as a teacher and must hold a first or second grade superintendent's license.³ The superintendent must post bond in the amount of \$5,000 (to be approved and filed by the auditor) and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁴

¹ Acts 1873, ch. 37; Acts 1899, ch. 112.

² Acts 1873, ch. 37, sec. 24, 25. Acts 1899, 1901, 1903, Burns 25-500; Baldwin 5621. State ex rel. Netherland v. Auditor, 10 Ind. 300 (1860). State ex rel. Lusk v. Potter, 119 Ind. 79, 14 N. E. 666 (1886). State ex rel. Williams v. Auditor, 110 Ind. 70, 35 N. E. 67 (1893). State ex rel. Ferguson v. Auditor, 112 Ind. 153, 17 N. E. 137 (1894). State ex rel. Means v. McFarland, 113 Ind. 266, 43 N. E. 5 (1896).

A township trustee cannot participate in the election if he is a candidate for the office. *Hornig v. State ex rel. Cassin*, 116 Ind. 103, 39 N. E. 351 (1895). Op. Atty. Gen. 1903, p. 229.

³ Acts 1873, ch. 14, sec. 1. Acts 1897, Burns, 1911 suppl., 1920-1, 1921, 1922, Burns 25-4 (0); Baldwin 5620.

Residence and citizenship. State ex rel. J. Smith v. Kilgus, 65 Ind. 119 (1862). Op. Atty. Gen. 1903, p. 167; 1922, p. 241; 1924, p. 30, 286.

⁴ Const. 1911, art. 17, sec. 4. Acts 1899, 1901, 1903, Burns 25-500; Baldwin 5621. 1 Rev. Stat. 1873; Burns 4-13, 45-95, 96-100; Baldwin 1877, 1878, 1888.

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$1,680 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,⁵ and that he is to be reimbursed for his traveling expenses not to exceed \$300 per year.⁶ The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, and records required in the performance of his official duties.⁷

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.⁸ He cannot conduct or assist in conducting any "private or county normal school in this State" or receive any "pay or emolument from the management of such school."⁹ He may serve as a member of the State Board of Education if appointed to that board by the Governor.¹⁰ He is a member of the county board of education and presides at its meetings.¹¹

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand

⁵ Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1941 suppl., 49 1014; Baldwin, 1939 suppl., 544. Op. Atty. Gen. 1938, p. 1-6.

The Constitution provides that "the salary of any officer fixed by this Constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the General Assembly shall not pass local or special laws "in relation to fees or salaries, except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1866).

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. Op. Atty. Gen. 1939, p. 132.

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. *Edington v. Board of County Commrs.*, 17 Ind. App. 16, 33 N. E. (2d) 825 (1929).

⁶ Acts 1911, ch. 81, sec. 3. Acts 1921, ch. 54, sec. 3. Acts 1935; Burns, 1941 suppl., 28-728; Baldwin, 1939 suppl., 594.

⁷ Acts 1906; Burns 29 757; Baldwin 5046.

⁸ Acts 1912, 1921, 1927, 1939; Burns, 1941 suppl., 29-611; Baldwin, 1939 suppl., 6739.

⁹ Acts 1911; Burns 29 16 to 29-712; Baldwin 5034 to 5035.

¹⁰ Acts 1911; Burns 29 461; Baldwin 606.

¹¹ See the entry entitled "County Board of Education."

jury or verified by the oath of any person.¹² If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The county superintendent of schools, with the approval of the township trustees may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁵

From 1837 until 1852 three county examiners were appointed by the circuit court. They examined teachers and granted teachers' licenses. They served for 1-year terms before 1838 and for indefinite terms thereafter.¹⁶ From 1853 until 1861 the board of commissioners annually appoint from one to three examiners.¹⁷ An act of 1861 required the board of commissioners to appoint one examiner for a term of 3 years to serve throughout the county. This examiner was given certain supervisory powers over the operation of schools. The inauguration of this function has been termed "the real beginning of rural school supervision in the State."¹⁸ The examiner conducted public examinations, issued licenses for periods from 6 months to two years, and had authority to revoke such licenses for cause. All licenses were limited to the county in which they were issued. He visited schools; advised with the trustees; endeavored to raise the educational standards of the schools; received all reports from teachers, trustees, and private schools and transmitted them to the State Superintendent of Public Instruction; aided and advised the township librarians; approved

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836. Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 19-87. Baldwin 1062. *McComas v. Krug*, 81 Ind. 327 (1878); *Hufford v. Conover*, 139 Ind. 151, 38 N. E. 328 (1894).

¹³ Acts 1897, 1899; Burns 49-824; Baldwin 13050.

¹⁴ Acts 1829, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁵ Acts 1911, 1921; Burns 28-709; Baldwin 5927.

¹⁶ Acts 1832-34, ch. 210, sec. 4. Acts 1836-37 (general), ch. 2(14), sec. 3. Rev. Stat. 1838, ch. 94(4) sec. 3. Rev. Stat. 1843, ch. 15, secs. 133-135.

¹⁷ Acts 1873, ch. 106, sec. 6. Acts 1855, ch. 86, sec. 146.

¹⁸ Acts 1861, ch. 41, sec. 32. Fessett A. Cotton, *Election in Indiana* (1793-1931), p. 247.

textbooks used in schools; advised trustees on school furnishings and equipment; and made such reports as were required by the State Department of Public Instruction.¹⁹ Encouragement of teachers' institutes and associations and additional regulations for teachers' examinations were added to his duties by an act of 1865.²⁰ An act of 1873 changed the officer's title to "county superintendent," transferred to the township trustees the power of appointment, made the county superintendent more responsible to the State Superintendent of Public Instruction, and gave the county superintendent advisory supervision of the schools of the county.²¹ An act of 1875, which was held unconstitutional in 1879, provided for the appointment of the county superintendent by the board of commissioners.²² An act of 1927 changed the title of this officer to "county superintendent of schools."²³ An act of 1923 gave the State Board of Education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and all other regular school employees.²⁴

FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,²⁵ and constitutes the medium between the State Superintendent of Public Instruction and the "subordinate school officers and the schools."²⁶

The county superintendent exercises general supervision of those schools in Wells County which are not within incorporated cities and towns;²⁷ carries out the orders of the State Board of Education and the State Superintendent of Public Instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;²⁸

¹⁹ Acts 1861, ch. 41, sec. 3-45.

²⁰ Act 1865, ch. 1, sec. 35-42.

²¹ Acts 1873, ch. 23, sec. 2-4.

²² Act 1875, ch. 36, sec. 1-4; *Indiana*, 37 Ind. 71 (1879).

²³ Acts 1927, ch. 147, sec. 1, 2. A.H.L. ch. 24, sec. 1, 2.

²⁴ Acts 1923, ch. 17, sec. 1-7; *Baldwin*, 22 Ind. 1-23. Information obtained from Floyd M. McNeal, State Department of Public Instruction on September 14, 1929, by W. Davis Hamilton.

²⁵ *Indiana*, 37 Ind. 71, 72; *F* (1879).

²⁶ Acts 1865, ch. 1, sec. 35-42; *Baldwin*, 22 Ind. 1-23.

²⁷ Acts 1873, ch. 23, sec. 2-4; *Baldwin*, 22 Ind. 1-23. Acts 1875, ch. 36, sec. 1-4; *Baldwin*, 22 Ind. 1-23.

²⁸ *F* (1879).

²⁹ Acts 1923, ch. 17, sec. 1-7; *Baldwin*, 22 Ind. 1-23. Acts 1927, ch. 147, sec. 1, 2; *Baldwin*, 22 Ind. 1-23.

obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;²⁹ cooperates with the State Board of Education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;³⁰ provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.³¹

The county superintendent keeps a complete record of licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);³² reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;³³ conducts teachers' meetings and institutes;³⁴ notifies teachers of their "duties and obligations" under the law concerning teachers' pensions; sees that these "duties and obligations" are stated in the teachers' contracts; and reports to the board of Trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.³⁵

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed, in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;³⁶ issues

²⁹ Acts 1913, 1923, 1927, 1937; Burns 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

³⁰ Acts 1923; Burns 28-7410; Baldwin 6021.

³¹ Acts 1889; Burns 28-706; Baldwin 5942.

³² This record shows the kind and grade of licenses, the success grade, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

³³ Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

³⁴ Acts 1865, ch. 1, secs. 159-161. Acts 1889; Burns 28-704, 28-706; Baldwin 5928, 5942. Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6718, 6715.

³⁵ These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1927, 1939; Burns, 1941 suppl., 28-4511(g); Baldwin, 1979 suppl., 6735(g).

³⁶ Acts 1921, 1932 (Spec. Sess.); Burns 25-501, 29-502; Baldwin 6693, 6694.

work permits and absence permits for children;³⁷ and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."³⁸

The county superintendent authorizes the removal and relocation of township school buildings;³⁹ acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;⁴⁰ appoints depository merchants and dealers for the sale of school books;⁴¹ and joins with each township trustee in making regulations concerning the free use of school books in the several school libraries.⁴²

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the State common school relief fund;⁴³ receives from the township trustees and the school trustees of cities and towns copies of their reports to the board of commissioners concerning "special school revenue" and the "school revenue for tuition";⁴⁴ reports to the county auditor the basis for the apportionment of school revenues;⁴⁵ receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;⁴⁶ sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";⁴⁷ and inspects the official

³⁷ Acts 1911, ch. 13, § 5, 1911, 1912, Baldwin 604, 612.

³⁸ Acts 1909, ch. 13, § 1, 1911, 1912, App 5, 1911, 1912, 1913, 1914.

³⁹ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604.

⁴⁰ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604.

⁴¹ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604.

⁴² Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604.

⁴³ The county superintendent does not "inspect school books by the official capacity." Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604.

⁴⁴ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

⁴⁵ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

⁴⁶ The county superintendent does not "inspect school books by the official capacity." Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

⁴⁷ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

⁴⁸ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

⁴⁹ Acts 1911, ch. 13, § 1, 1911, 1912, Baldwin 604, 612, 613, 614, 615.

lockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and he institutes judicial proceedings when such neglect is found.⁴

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library board which receives aid from the county.⁵ From 1919 until 1933 he annually awarded two scholarships to Indiana University.⁶

The county superintendent hears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred pupils to and from school, the resignation and dismissal of teachers, and other school matters.⁷ He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.⁸ In many cases his acts and decisions are reviewable on appeal to the State Superintendent of Public Instructions.⁹

The county superintendent receives annual statistical reports from township trustees and the school trustees of

⁴ Acts 1837, Burns 28-71; Baldwin 2870. *Moore v. State ex rel. Denny*, 55 Ind. 360 (1876); *Nichols v. State ex rel. Clerk*, 65 Ind. 512 (1893); *Carr v. State ex rel. Attorney General*, 61 Ind. 342 (1882).

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. *McCormick v. State ex rel. Board*, 21 Ind. App. 431, 6 N. E. 315 (1907).

⁵ Acts 1877, 1887, 1897, Burns, 1901 suppl., 1920, 41-44, Baldwin, 189 suppl., 1921, 10-15.

⁶ Acts 1919, ch. 187, sec. 1. *ADP LIT.*, 25-26, sec. 1.

⁷ Acts 1837, Burns 28-71; Baldwin 2870. *State ex rel. Denny v. Board of Commissioners*, Baldwin 5852. Acts 1881, Burns 28-71, 1890-91, 1892-93, 1894-95, 1896-97, 1898-99, 1900-01, 1902-03, 1904-05, 1906-07, 1908-09, 1910-11, 1912-13, 1914-15, 1916-17, 1918-19, 1920-21, 1922-23, 1924-25, 1926-27, 1928-29, 1930-31, 1932-33, 1934-35, 1936-37, 1938-39, 1940-41, 1942-43, 1944-45, 1946-47, 1948-49, 1950-51, 1952-53, 1954-55, 1956-57, 1958-59, 1960-61, 1962-63, 1964-65, 1966-67, 1968-69, 1970-71, 1972-73, 1974-75, 1976-77, 1978-79, 1980-81, 1982-83, 1984-85, 1986-87, 1988-89, 1990-91, 1992-93, 1994-95, 1996-97, 1998-99, 2000-01, 2002-03, 2004-05, 2006-07, 2008-09, 2010-11, 2012-13, 2014-15, 2016-17, 2018-19, 2020-21, 2022-23, 2024-25, 2026-27, 2028-29, 2030-31, 2032-33, 2034-35, 2036-37, 2038-39, 2040-41, 2042-43, 2044-45, 2046-47, 2048-49, 2050-51, 2052-53, 2054-55, 2056-57, 2058-59, 2060-61, 2062-63, 2064-65, 2066-67, 2068-69, 2070-71, 2072-73, 2074-75, 2076-77, 2078-79, 2080-81, 2082-83, 2084-85, 2086-87, 2088-89, 2090-91, 2092-93, 2094-95, 2096-97, 2098-99, 2100-01, 2102-03, 2104-05, 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4104-05, 4106-07, 4108-09, 4110-11, 4112-13, 4114-15, 4116-17, 4118-19, 4120-21, 4122-23, 4124-25, 4126-27, 4128-29, 4130-31, 4132-33, 4134-35, 4136-37, 4138-39, 4140-41, 4142-43, 4144-45, 4146-47, 4148-49, 4150-51, 4152-53, 4154-55, 4156-57, 4158-59, 4160-61, 4162-63, 4164-65, 4166-67, 4168-69, 4170-71, 4172-73, 4174-75, 4176-77, 4178-79, 4180-81, 4182-83, 4184-85, 4186-87, 4188-89, 4190-91, 4192-93, 4194-95, 4196-97, 4198-99, 4200-01, 4202-03, 4204-05, 4206-07, 4208-09, 4210-11, 4212-13, 4214-15, 4216-17, 4218-19, 4220-21, 4222-23, 4224-25, 4226-27, 4228-29, 4230-31, 4232-33, 4234-35, 4236-37, 4238-39, 4240-41, 4242-43, 4244-45, 4246-47, 4248-49, 4250-51, 4252-53, 4254-55, 4256-57, 4258-59, 4260-61, 4262-63, 4264-65, 4266-67, 4268-69, 4270-71, 4272-73, 4274-75, 4276-77, 4278-79, 4280-81, 4282-83, 4284-85, 4286-87, 4288-89, 4290-91, 4292-93, 4294-95, 4296-97, 4298-99, 4300-01, 4302-03, 4304-05, 4306-07, 4308-09, 4310-11, 4312-13, 4314-15, 4316-17, 4318-19, 4320-21, 4322-23, 4324-25, 4326-27, 4328-29, 4330-31, 4332-33, 4334-35, 4336-37, 4338-39, 4340-41, 4342-43, 4344-45, 4346-47, 4348-49, 4350-51, 4352-53, 4354-55, 4356-57, 4358-59, 4360-61, 4362-63, 4364-65, 4366-67, 4368-69, 4370-71, 4372-73, 4374-75, 4376-77, 4378-79, 4380-81, 4382-83, 4384-85, 4386-87, 4388-89, 4390-91, 4392-93, 4394-95, 4396-97, 4398-99, 4400-01, 4402-03, 4404-05,

cities and towns;⁵⁴ cooperates in the examination of schools by inspectors of the State Board of Education; makes reports as required by such inspectors;⁵⁵ and makes annual reports to the State Superintendent of Public Instruction concerning the condition of the schools and schoolhouses, the progress of education, the average daily attendance of school children (substituted for the enumeration of children of school age in 1932) as the basis for distributing school revenues and such additional statistics and information concerning public and private schools as is required by the State Superintendent.⁵⁶

All of the records of the county superintendent of schools are in his office except as otherwise indicated in the entries.

REPORTS

378. RECORD OF OFFICIAL REPORTS, 1884-96. 1 vol.

Contains:

- i. Record of annual financial statements of revenue for tuition and special school purposes, showing date of statement and period covered; name of school unit; and amounts of tuition and special school funds on hand at beginning and close of year, receipts for year, and expended during year. Arr. chron. by date of statement.
- ii. Record of annual statistical statements, showing date of statement and period covered; name of school unit; number and type of school houses; number of school rooms; estimated value of houses, grounds, and equipment; itemized tax levy by funds; number of volumes in school unit's library and added and loaned during year; amount paid trustee for managing schools; number and value of new schools erected during year; and number of township institutes held. Arr. chron. by date of statement.
- iii. Record of annual statistical statements, showing date of statement and period covered, name of school unit, number of pupils enrolled during year, average daily attendance of all pupils, number of

⁵⁴ Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

⁵⁵ Acts 1921, Burns 28-305; Baldwin 5939.

⁵⁶ Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949, Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin, 6490.

schools taught, average length of school term, number, sex, and average daily compensation of teachers employed. Arr. chron. by date of statement.

iv. Record of township teachers' institutes held, showing date of institute, name of township, and number of teachers present and absent. Arr. chron. by date of institute.

v. Record of superintendents' visits to schools, showing date of visit, names of township and teacher, and school district number. Arr. chron. by date of visit.

Also contains: Enumeration for school purposes, 1884-96, entry 386. No index. Hdw. 300 pp. 14 x 9 x 1. Attic strg. room.

379. STATISTICAL AND FINANCIAL REPORTS, 1890-. 5 f. b.

Contains:

i. Annual statistical and financial reports by township trustees to County superintendent of schools, showing information as in entry 378.

ii. Annual statistical and financial reports by county superintendent of schools to State Superintendent of Public Instruction, showing information as in entry 378.

Arr. chron. by date of report. No index. Hdw. and typed. 12 x 5 x 12. Supt. pvt. off.

380. SCHOOL BOOK REPORT, 1898-1916. 1 f. b.

Township trustees' reports to county superintendent of schools pertaining to school books sold, showing date of report and period covered; name of trustee and book dealer; number and kind of books on hand at beginning of period, received, sold, and total on hand on date of report; and amount due book dealer. Arr. chron. by date of report. No index. Hdw. and typed. 12 x 5 x 12. Supt. pvt. off.

381. ATTENDANCE REPORTS, 1926-. 9 letter files, 1 carton, and 3 f. d.

Teachers' final reports on attendance of pupils, showing dates of report and period covered; names of teacher, school, and school unit; grades taught; number pupils originally enrolled and enrollment at end of school year; transfers and withdrawals; attendance record; number of pupils transported; number, sex, and color of pupils by grades. Arr. by name

of school unit and alph. thereunder by name of school. No index. Hdw. Letter files 12 x 2 x 12; carton 13 x 13 x 2; 1 f. d. 12 x 15 x 27; 2 f. d. 12 x 5 x 22. 9 letter files and 1 carton, 1926-33, attic strg. room; 1 f. d., 1934-38, supt. pvt. off.; 2 f. d., 1939-, supt. off.

382. EXAMINATION REPORTS, 1893-1923. 2 cartons and 10 f. b.

Teachers' reports to county superintendent of schools of pupils' examinations, showing dates of examinations and report; names of school, pupil, and teacher; school district number; examination gradings by subjects; and number and names of books read. Arr. chron. by date of report. No index. Hdw. Cartons 10 x 16 x 24; f. b. 12 x 5 x 12. 10 f. b., 1893-1906, supt. pvt. off.; 2 cartons, 1904-23, attic strg. room.

383. TRUANT OFFICER REPORTS, 1897-1913, 1930-32. 1 f. b. Truant officer's report to county superintendent of schools, showing date of report, name of officer, names of child and school, days absent from school, reason for absence, and detailed report on retarded and problem children. Arr. chron. by date of report. No index. Hdw. 12 x 5 x 12. Supt. pvt. off.

384. HIGH SCHOOL REPORT, 1909-10. 1 vol.

Annual reports by school principals to county superintendent of schools, showing date of report and period covered; names of school, principal, and teacher; name, age, and grade of pupil; subjects taken; names of textbooks studied or read; average recitation and examination gradings; promotions and failures; and duration of school term. Arr. by name of school. No index. Hdw. and typed. 200 pp. 11 x 8 x 1. Supt. pvt. off.

385. ENUMERATION REPORTS, 1887-95, 1925-32. 2 f. b.

Original enumeration reports of children between the ages of 6 and 21 years, showing information as in entry 386. Arr. chron. by date of report. No index. Hdw. 12 x 5 x 12. Supt. pvt. off.

386. ENUMERATION FOR SCHOOL PURPOSES, 1897-1927. 393 vols. 1881-82 in County Superintendent's Record, entry 397; 1884-96 in Record of Official Reports, entry 378.

Record of enumeration reports of children between the ages of 6 and 21 years, showing dates of report and enumeration;

name, age, date and place of birth, and address of child; names of parents and townships; and school district number. Arr. numer. by school district no. and alph. thereunder by name of child. No index. Hdw. 44 pp. 14 x 8 x $\frac{1}{2}$. Attic strg. room.

387. SCHOOL REGISTER, 1919-30. 16 vols.

Record of teachers' reports to trustee of aggregate attendance of pupils, showing dates of report and period covered; names of teacher, school, and school unit; name and date of birth of pupil; subjects studied and grades attained; attendance record; total days school taught; total enrollment; and aggregate attendance. Arr. by name of school. No index. Hdw. 50 pp. 15 x 12 x $\frac{1}{2}$. Attic strg. room.

TEACHERS

388. TEACHER'S EXAMINATION RECORD, 1873-80, 1884-1921.
5 vols. 1881-33 in County Superintendent's Record,
entry 397.

Record of examinations for elementary teachers' licenses, showing date of examination and issuance of license; name, address, teaching experience, and examination grades of teacher; and results of examination. No index. Hdw. 260 pp. 15 x 10 x $1\frac{1}{2}$. 4 vols., 1873-80. 1889-1921, supt. pvt. off.; 1 vol., 1884-88, attic strg. room.

389. HIGH SCHOOL TEACHERS' EXAMINATION RECORD, Aug. 28, 1897-Aug. 1912, Jan. 1, 1920-June 25, 1921. 2 vols. Title varies: Record of Teachers' Examination For High School, Aug. 28, 1897-Aug. 1912, 1 vol.

Record of examinations for high school teachers' licenses, showing information as in entry 388. Arr. chron. by date of examination. Indexed alph. by name of teacher. Hdw. 1 vol., Aug. 28, 1897-Aug. 1912, 80 pp. 9 x 11 x 1; 1 vol., Jan. 1, 1920-June 25, 1921, 120 pp. 18 x 12 x 1. Supt. pvt. off.

390. RECORD OF LICENSES, 1921-. 1 f. b. and 2 f. d.
Contains:

- i. Record of teachers' assignment to township schools, showing school year, permanent and temporary addresses of teacher, college attended, college degree, name of township and teacher, and teach-

ing assignment.

- ii. Record of teachers' licenses and qualifications, showing date, number, and grade of license; name and address of teacher and college attended; college degree; and teaching record.

Arr. alph. by name of teacher. No index. Hdw. and typed. F. b. 5 x 6 x 11; f. d. 6 x 8 x 16. 1 f. b., 1921-23, supt. off.; 2 f. d., 1924-, supt. pvt. off.

PUPILS

391. INDEX OF SCHOOL CHILDREN OF WELLS COUNTY [record of enrollments], 1921-23, 1936-. 12 vols. and 4 f. d. Record of enrollment of pupils, showing school year; school district number; names and address of parent or guardian; name, age, and date and place of birth of child; and names of school and township. Arr. by school district no. and alph. thereunder by name of child. No index. Hdw. Vols. 200 pp. 6 x 9 x 2; f. d. 6 x 5 x 4. 12 vols., 1921-23, attic strg. room; 4 f. d., 1930-, supt. pvt. off.

392. COMMON AND HIGH SCHOOL PERMANENT RECORD OF SCHOLARSHIP AND ATTENDANCE, 1928-. 2 f. d.

Record of enrollment of common and high school pupils, showing date of enrollment and withdrawal or graduation; name, address, and date and place of birth of pupil; names of parents or guardian and school attended; occupation, economic status, and home conditions of parents; number of children in family; subjects studied and grades attained; attendance, employment, and health record; and extra curricular activities. Also contains: Record of common school graduates, 1936-, entry 394. Arr. alph. by name of pupils. No index. Hdw. 12 x 15 x 27. Supt. pvt. off.

393. DROP OUTS, 1924-. 2 f. d.

Record of withdrawals of pupils from common and high schools, showing date of enrollment and withdrawal; name, age, date and place of birth, and school record of pupil; names, address, and occupation of parents or guardian; and name of last teacher. Arr. alph. by name of pupil. No index. Hdw. 12 x 5 x 27. Supt. pvt. off.

394. RECORD OF COMMON SCHOOL GRADUATES, 1888-1921, 1927-35. 2 vols. and 1 letter file. Title varies: 8th Grade Graduates, 1927-35, 1 letter file. 1936-in

Common and High School Permanent Record of Scholarship and Attendance, entry 392.

Record of graduation of pupil from common schools, showing date of graduation; name, age, sex, and address of graduate; names of teacher, township trustee, and school superintendent; and subjects, grades, and general average grade of examination. Arr. by name of t. and chron. thereunder by date of graduation. No index. Hdw. 1888-1921; hdw. and typed 1827-35. Vols. 200 pp. 14 x 8 $\frac{1}{2}$ x 1; letter file 12 x 12 x 3. 2 vols., 1888-1921, attic strg. room; 1 letter file, 1927-35, supt. pvt. off.

395. HIGH SCHOOL RECORD, Sept. 6, 1909-Apr. 25, 1919.
1 vol.

Record of Keystone High School pupils, showing dates of enrollment and withdrawal or graduation; name, address, and date and place of birth of pupil; name of parents or guardian, teachers, and superintendent; subjects studied; summary of grades and credits; and names of textbooks. Arr. chron. by date of enrollment. Indexed alph. by name of pupil. Hdw. 200 pp. 19 x 12 x 1. Attic strg. room.

396. [RECORD OF SCHOOL HEALTH SUPERVISION,] 1937-. 2 f.
d.

Record of inspections of pupils by county health nurse, showing date of inspection; names, addresses, and occupation of parents; names of nurse and school; name, age, sex, height, weight, color, and date and place of birth of pupil; record of diseases and medical examination; and nurse's inspections. Arr. by name of school and thereunder by grade no. No index. Hdw. 12 x 15 x 24. Supt. off.

MISCELLANEOUS RECORDS

397. COUNTY SUPERINTENDENT'S RECORD, 1881-1921. 1 vol.
Contains:

- i. List of names of teachers employed in county, showing name and address of teacher, name of township, and school district number. No obvious arr.
- ii. Salary and expense account of county superintendent of schools, showing date and nature of service and amounts of expense and salary. Arr. chron. by date of service.

Also contains: Teacher's examination record, 1881-83, entry 388; enumeration for school purposes, 1881-82, entry 386. No index. Hdw. 300 pp. 10 x 15 x 1½. Attie strg. room.

398. REPORT OF TEACHERS COUNTY INSTITUTES, 1892-94. 1 vol.

Minutes of business transacted at county teachers' institutes, showing date of institute, names of teachers present and speaker, subjects discussed and action taken. Arr. chron. by date of institute. No index. Hdw. 100 pp. 14 x 8 x 2½. Attie strg. room.

399. MINUTES OF PRINCIPALS MEETINGS, 1929-. 1 vol.

Minutes of meetings of school principals of county, showing date of meeting, names of principals present, business discussed, and action taken. Arr. chron. by date of meeting. No index. Hdw. 200 pp. 16 x 10 x 1. Supt. pvt. off.

400. COUNTY SUPERINTENDENT'S REQUISITIONS FOR TEXT BOOKS, 1889-94, 1904-15. 3 vols.

Record of textbook transactions by county superintendent of schools, showing dates of orders, receipt of books, sales, returns, and report to book dealer; name and address of dealer; itemized account of books on hand last report, received, sold, returned, and on hand; and amount of sales. Arr. chron. by date of order. No index. Hdw. 200 pp. 12 x 10 x 1. 2 vols., 1889-94, 1907-15, attic strg. room; 1 vol., 1904-6, supt. pvt. off.

XXXIV. COUNTY LIBRARY BOARD

EVOLUTION AND STRUCTURAL ORGANIZATION

The county library board has existed in Wells County ever since 1938 under the provisions of acts of 1917, 1921, and 1939 and is known as the Bluffton-Wells County Library Board.¹ Previous to the present system a city library board operated a library for the city of Bluffton with privileges thereof granted to residents of adjacent townships which contributed to the support of the library.²

¹ Acts 1917, 1921, 1939; Burns 1939 suppl., 41-513; Baldwin, 1939 suppl., 10324. See footnote 3 herein.

² *Bluffton Public Library, 1902-1927*, p. 35.

In 1938 Wells County joined with the city of Bluffton in the support and operation of the library, which then became available for use by the residents of all the county.² Four residents of the county residing outside Bluffton, at least two of whom are women, are appointed (two by the board of county commissioners and two by the county superintendent of schools), for terms of two years, to serve with the Bluffton members in the management of the library.³ These four members take an oath of office⁴ and receive no compensation for their services.⁶

FUNCTIONS AND RECORDS

The Bluffton-Wells County Library Board has control of the Bluffton-Wells County Library and all its assets; purchases books, pamphlets, periodicals, and all other necessary material and equipment; receives donations, bequests, and legacies; purchases and sells real estate and personal property for and on behalf of the library; makes rules and regulations for the use and operation of the library; employs a librarian and assistants; disburses and invests funds of the library;⁷ annually prepares budget estimates of funds needed for the library and delivers the same to the board of county commissioners and the county auditor;⁸ may issue and sell bonds in an amount not to exceed \$20,000 for construction, purchase, or improvement of a library building or buildings;⁹ and keeps records of the books, manuscripts, publications, property, and funds of the library.¹⁰

² Information obtained from Elsie Strassweg, librarian of the Bluffton-Wells County Library, on October 9, 1941, by William E. Chambers.

⁴ Acts 1917, 1921, 1929; Burns, 1939 suppl., 41-514; Baldwin, 1939 suppl., 10325.

Filling vacancy in unexpired term. Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321.

⁵ Acts 1917; Burns 41-511; Baldwin 10322.

⁶ Information obtained from Elsie Strassweg, librarian of the Bluffton-Wells County Library, on October 9, 1941, by William E. Chambers.

⁷ Acts 1917; Burns 41-512; Baldwin 10323.

⁸ Acts 1917, 1921; Burns 41-515; Baldwin 10326.

⁹ Acts 1929; Burns 41-519; Baldwin 10329, 10330.

¹⁰ Information obtained from Elsie Strassweg, librarian of the Bluffton-Wells County Library, on October 9, 1941, by William E. Chambers.

XXXV. COUNTY ATTENDANCE OFFICER

LEGAL STATUS

The office of county attendance officer (known as "truant officer" before 1913) has existed in Wells County ever since 1897 under the provisions of Acts of 1897, 1899, 1901, 1913, 1921, and 1932. The attendance officer is nominated by the county superintendent of schools, is appointed by the county board of education for a 1-year term beginning on August 1, and holds office until his successor is appointed and qualified. As many attendance officers as are needed may be appointed. When no attendance officer is appointed, the county superintendent of schools is ex officio attendance officer with no additional compensation and may designate one or more teachers of the township schools to act as assistant attendance officers without additional compensation.¹ An appointive attendance officer now holds this office in Wells County.

An attendance officer must have completed the course of instruction required in the elementary public schools and possess such other qualifications as may be prescribed by the State Board of Attendance;² must reside in the county after his appointment; must not hold any other lucrative office;³ and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.⁴

He receives compensation fixed by the county board of education at not less than \$3 nor more than \$5 per day for each day of actual service. He is reimbursed for the actual expenses necessarily incurred by him in the proper performance of his duties.⁵

The State Board of Attendance has power to remove any county attendance officer for incompetence or neglect of duty.⁶ For sufficient legal causes set forth in an accusation presented by the grand jury or verified by the oath of any person, he may be removed by the circuit court after trial

¹ Acts 1897, ch. 167, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 217, sec. 4. Acts 1921, 1922 (Spec. Sess.), Burns 28-501, 28-102, Baldwin 6693, 6694.

² Acts 1921, 1922 (Spec. Sess.), Burns 28-503; Baldwin 6695.

³ Const. 1891, art. 2, sec. 9, art. 6, sec. 6.

⁴ Const. 1891, art. 15, sec. 1. Acts 1905, Burns 10-708; Baldwin 2660. 1 Rev. Stat. 1897, Burns 49-101, 49-102, 49-104, Baldwin 13044, 13045, 13047.

⁵ Acts 1901, 1922 (Spec. Sess.), Burns 21-102; Baldwin 6694.

⁶ *Ibid.*

by jury.⁷ If he be convicted of a felony, the judgment of conviction must declare his office vacant.

From 1897 until 1932 the appointment of a county attendance officer was mandatory. From 1897 until 1901 he was appointed by the county superintendent of schools, the secretary of the State Board of Charities, and a member of the State Board of Education. From 1913 until 1921 he acted as probation officer in counties with less than 25,000 inhabitants.⁹

FUNCTIONS AND RECORDS

All township schools in the county are within the jurisdiction of the county attendance officer, whether appointive or ex officio. An appointive attendance officer also has jurisdiction over each town school in the county that has no separate appointive attendance officer.¹⁰

The county school attendance officer works under the general supervision of the State Attendance Officer¹¹ and under the rules, direction, and control of the county superintendent of schools; maintains an office at a place designated by the superintendent; is on duty during school hours and such other times as required by the superintendent;¹² and enforces the provisions of the compulsory attendance laws.¹³

He inspects the attendance records kept by teachers; makes inquiries of teachers concerning attendance of school children;¹⁴ visits the homes of children who are absent from school or who are reported to be in need of books, clothing, or parental care; visits places where minors are employed, and makes inquiries and inspections thereat for the purpose of determining whether there are violations of the compulsory attendance laws;¹⁵ serves written notices on parents, guardians,

⁷ Acts 1897; Burns 49-821 to 49-837, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1899; Burns 49-834; Baldwin 13050.

⁹ See footnote 1 herein.

¹⁰ Acts 1921, 1932 (Spec. Sess.), Burns 28-501; Baldwin 6693.

¹¹ Acts 1921; Burns 28-504; Baldwin 6697.

¹² Acts 1921, 1932 (Spec. Sess.), Burns 28-502; Baldwin 6694.

¹³ *Ibid.*

¹⁴ Acts 1921; Burns 28-511; Baldwin 5704.

¹⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 3. Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

or custodians whose children are illegally out of school;¹⁶ and serves original and other processes in cases arising under the provisions of the compulsory attendance laws.¹⁷

He brings suit for enforcement of the provisions of the compulsory attendance laws, with the approval of the county or town superintendent, the State Attendance Officer, or the State Board of Attendance.¹⁸ The superintendent and the attendance officer, acting together, may report to the circuit court any child who habitually absents himself from school and request that such child be declared a confirmed truant and be sentenced to the Indiana Boys' School, the Indiana Girls' School, some other custodial institution, to the care of a probation officer or the attendance officer acting as special probation officer.¹⁹

When a teacher reports to him that any school child is unclean or infested with vermin, the attendance officer gives notice to the child's parent or guardian requiring him to correct such condition. He must arrest and prosecute the parent or guardian who does not comply with the notice; and must have such child bathed and cleansed when so ordered by the superintendent.²⁰

On the request of the overseer of the poor of any township, and with the approval of the board of county commissioners, the attendance officer must serve as an investigator of the poor in any township in the county with all the duties and powers of an investigator.²¹

He must keep such records and make such reports as are required by the State Board of Attendance and the superintendent.²²

It is a criminal offense for any person to hinder or delay the attendance officer in the performance of his official duties.²³

No records of the county attendance officer were found in this county.

¹⁶ Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-502, 28-503, Baldwin 6694, 6701.

¹⁷ Acts 1921, 1932 (Spec. Sess.); Burns 28-502; Baldwin 6694.

¹⁸ *Id.*, Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 241, sec. 2. Acts 1901, ch. 209, sec.

2. Acts 1913, ch. 213, sec. 4.

¹⁹ Acts 1921; Burns 28-509, 28-516, Baldwin 6702, 6709.

²⁰ Acts 1911; Burns 28-2902; Baldwin 6135.

²¹ Acts 1933, Burns 52-139; Baldwin 6695.

²² Acts 1921, 1932 (Spec. Sess.). Burns 28-502; Baldwin 6694.

²³ Acts 1921, Burns 28-517, Baldwin 6710.

XXXVI. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer has existed in Wells County ever since 1938 under the requirements of an act of 1935, which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners with the approval of the Indiana State Board of Health.¹ He holds office for such term and until his successor is appointed and qualified.² A new term of office begins each 4th year after January 1, 1938.³ The board of commissioners determine whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer.⁴

Two or more counties may be formed into a health district in charge of a full-time official known as a district health officer. Wells County is not in such a health district.⁵

A health officer must be a regular licensed physician, legally qualified to practice medicine in Indiana and suitably trained in sanitary science;⁶ must have resided in the county for 1 year next preceeding his appointment;⁷ must reside within the county after his appointment;⁸ must not hold any other lucrative office when serving as a full-time health officer;⁹ and must take an oath of office to support the State and Federal Constitutions and faithfully discharge the duties of his office.¹⁰

A part-time county health officer receives an annual salary in an amount equal to 3 cents for each person residing within

¹ Const. 1816, art. 11, sec. 15. Const. 1851, art. 15, secs. 1, 2. Acts 1935; Burns, 1941 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7.

² Const. 1851, art. 15, sec. 3. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

³ Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁴ Acts 1935; Burns, 1941 suppl., 35-122, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-11. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.

⁵ Acts 1935; Burns, 1941 suppl., 35-125; Baldwin, 1935 suppl., 8404-8. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 17, 1941, by William E. Chambers.

⁶ Acts 1909, ch. 144, sec. 6. Acts 1925; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁷ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁸ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Const. 1851, art. 15, sec. 4.

the area included in his territorial jurisdiction, provided that his salary must be between \$200 and \$1,800 per year. A part-time county health officer may also serve as a part-time city health officer but his compensation from the two offices cannot exceed \$1,800 per year. A full-time county health officer receives an annual salary in an amount fixed by the board of commissioners.¹¹ With the approval of the board of commissioners and the State Board of Health, a health officer is permitted to receive gifts and other financial assistance from private individuals, private corporations, the State, and the United States.¹² A retiring health officer cannot receive his last month's pay until all books are surrendered and all reports are properly made.¹³

The health officer may appoint necessary deputies and assistants to serve during certain emergencies.¹⁴ The necessary operating expenses of this office must be provided by the board of commissioners and he is entitled to reimbursement for all traveling expenses necessarily incurred by him in the discharge of his official duties.¹⁵

The health officer may be removed from office by the board of commissioners or the State Board of Health.¹⁶ If he is convicted of a felony the judgment of conviction must declare his office vacant.¹⁷

Any vacancy in his office is filled through appointment by the board of commissioners with approval of the State Board of Health. The appointee holds office for the unexpired term of his predecessor and until the appointee's successor is appointed and qualified.¹⁸

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health and annually appointed a

¹¹ Acts 1881, ch. 19, sec. 8. Acts 1891, ch. 15, sec. 8. Acts 1935, Burns, 1941 suppl., 35-118, 35-121; Baldwin, 1935 suppl., 8404-1, 8404-7. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on November 25, 1940, by W. Davis Hamilton.

¹² Acts 1901; Burns, 1941 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

¹³ State Board of Health, *Book of Instructions to Health Authorities*, Rule 7(C), p. 12.

¹⁴ *Id.*, Rule 1, p. 9.

¹⁵ Acts 1905, Burns, 1941 suppl., 35-118, 35-122; Baldwin, 1935 suppl., 8404-1, 8404-5. Acts 1902, Burns 35-406, Baldwin 82-6. Op. Atty. Gen. 1934, p. 282, 1938, p. 11.

¹⁶ Acts 1909, ch. 144, sec. 6. Acts 1935, Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁷ Const. 1881, art. 6, sec. 8. Acts 1899, Burns 42-834, Baldwin 13070.

¹⁸ Const. 1881, art. 6, sec. 9, art. 15, sec. 3. Acts 1899, ch. 16, sec. 2. Acts 1925; Burns, 1941 suppl., 35-118, Baldwin, 1935 suppl., 8404-1.

secretary, who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to the inmates of the county jail and other county institutions.¹ An act of 1891 enlarged the duties of the board.² In 1909 the county board of health was abolished and the office of county health commissioner was created. He was appointed by the board of commissioners for a 4-year term. The law of 1935, which is mentioned in the first paragraph of this essay, superseded the act of 1909.³

FUNCTIONS AND RECORDS

The territorial jurisdiction of a county health officer extends throughout the county, except that a full-time county health officer has no jurisdiction of the area within a city having a full-time health officer and a part-time county health officer has no jurisdiction in a city which has a full-time or a part-time health officer. The jurisdiction of a district health officer (hereinafter treated as a county health officer) extends throughout all counties in his district, except in cities having a full-time health officer.⁴

The health officer protects and supervises the general health and sanitation within his territorial jurisdiction;⁵ enforces the public health statutes of the State and the rules of the State Board of Health, subject to appeal by any aggrieved person to the State Board of Health;⁶ condemns buildings which are unfit for human habitation;⁷ orders improvements in or about buildings when necessary to health;⁸ must acquaint himself thoroughly with the work of the State

¹ Acts 188, ch. 19, secs. 8, 9, 11. Acts 189, ch. 122, sec. 1. Acts 1891, ch. 15, secs. 8, 9, 11. Acts 1899, ch. 10, secs. 2, 4, 5, 8.

² Acts 1891, ch. 17, sec. 8. Acts 1894, ch. 16, sec. 8.

³ Acts 1909, ch. 144, secs. 4, 6. Acts 1935, Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404 1.

⁴ Acts 1909, ch. 144, suppl., 35-118, 35-119, 35-120; Baldwin, 1935 suppl., 8404-5, 8404-7, 8404-11. State Board of Health, *op. cit.*, 7. *Op. Atty. Gen.* 208, p. 93.

⁵ Acts 1891, ch. 10, sec. 8. Acts 1891, 1909, Burns 35-119, Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118, 35-119, Baldwin 8404-5, 8404-7, 8404-11.

⁶ Acts 1891, ch. 19, sec. 9. Acts 1891, 1909, Burns 35-119, Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118, Baldwin, 1935 suppl., 8404 1.

The rules established by the State Board of Health have the force of statutes. *Blair v. Beach*, 157 Ind. 121, 62 N. E. 94 (1902); *Leach v. State*, 157 Ind. 507, 511, 62 N. E. 10 (1902).

⁷ Acts 1909, Burns 35-119, Baldwin 8405.

⁸ Acts 1909, Burns 35-119, Baldwin 8404.

concerning such births,³⁷ marriages,³⁸ diseases,³⁹ and deaths;⁴⁰ issues permits for transportation and burial of dead human bodies and sends reports thereof to the State Board of Health;⁴¹ has supervision over funerals in case of death from certain diseases;⁴² notifies the county coroner when he finds evidence that a death was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit;⁴³ and prepares and delivers to the clerk of the circuit court on his request a list of names and addresses of deceased voters of the county.⁴⁴

He inspects places used for the sale of food to the public, or for the manufacture, storage, distribution, or transportation of food for such sale; reports to the State Board of Health any conditions at such places which may transmit, generate, or promote disease;⁴⁵ orders the abatement of public nuisances, and notifies the prosecuting attorney if such order be disobeyed;⁴⁶ makes medical examinations of persons required by law to have health certificates in order to engage in certain occupations involving the handling of food and food materials, and issue health certificates to such persons when free of communicable disease; designates physicians to make such medical examinations and issue such health certificates;⁴⁷ directs the cleaning and disinfecting of milk containers before their removal from places at which certain diseases existed;⁴⁸

³⁷ See footnote 32 herein.

³⁸ See footnote 33 herein.

³⁹ See footnote 34 herein.

⁴⁰ See footnote 35 herein.

⁴¹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State Board of Health, *op. cit.*, Rule 44, p. 28.

⁴² Acts 1907, 1915; Burns 35-109; Baldwin 8539.

⁴³ Acts 1907, 1913; Burns 35-115; Baldwin 8398.

⁴⁴ Acts 1925, ch. 133, sec. 1 (repealed by Acts 1927, ch. 195, sec. 1). Acts 1933; Burns 29-321; Baldwin 7319.

⁴⁵ Acts 1891, 1909; Burns 35-111, 35-1009; Baldwin 8405, 8512. Acts 1919; Burns 35-1103; Baldwin 8521. Acts 1907, 1911; Burns 35-1203; Baldwin 8450. Acts 1911; Burns 35-1507; Baldwin 8502.

⁴⁶ Acts 1891, 1909; Burns 35-111; Baldwin 8405. State Board of Health, *op. cit.*, pp. 5, 6, 91.

⁴⁷ Bakery. Acts 1919; Burns 35-1103; Baldwin 8516.

Milk. State Board of Health, *op. cit.*, Par. 31(b), p. 53.

Cheese. *Ibid.*, Par. 7(b), p. 76.

Ice cream. *Ibid.*, Par. 8(b), p. 63.

⁴⁸ *Ibid.*, Rules 26, FD4(13), pp. 25, 26, 49.

inspects the public water supply; ascertain, and inspects the sources of water used in bakeries, restaurants, hotels, tourists camps, and similar places in the county; sends samples of water to the State laboratory for inspection, in order to detect pollution; issues certificates showing the quality of water in certain private wells; orders the disuse of water from any polluted water supply; and recommends methods of improving the quality of any public or private water supply.¹⁰

The health officer investigates the presence, source, and cause of diseases;¹¹ establishes, enforces, modifies, and terminates quarantines;¹² closes schools, churches, and swimming pools, and forbids public gatherings, in order to prevent the spread of epidemics;¹³ authorizes vaccination in certain cases as an alternative of quarantine or exclusion from public places;¹⁴ causes public service vehicles, public buildings, and dwelling places, and articles contained therein, to be disinfected after certain diseases have existed there;¹⁵ causes the removal of diseased persons and their baggage from public service vehicles, hotels, rooming houses, apartments, and similar places, when necessary to prevent the spread of certain diseases;¹⁶ issues permits authorizing common carriers to bring into the State persons having certain diseases;¹⁷ issues permits authorizing persons having a venereal disease to

¹⁰ Acts 1901, ch. 10, § 3; Baldwin 816; Acts 1911, Burns 25-1101; Baldwin 8518. State Board of Health, *op. cit.*, Rules 2E, SE, 18, 19, 20, pp. 75-81, 89-91.

¹¹ Acts 1901, ch. 10, § 10; Burns 25-111; Baldwin 8403; Acts 1901, Burns 25-406; Baldwin 8538. State Board of Health, *op. cit.*, Rule 16, p. 75.

¹² *Id.*; Baldwin 8403; Burns 25-406; Baldwin 8538.

¹³ Acts 1901, ch. 10; Baldwin 8403; Burns 25-406; Acts 1901, Burns 25-403, 37-408, 35-407; Baldwin 8403; *op. cit.*, State Board of Health, *op. cit.*, Rules 10-12, 17, pp. 17-26.

¹⁴ *Id.*; Baldwin 8403; Burns 25-406; Baldwin 8538.

¹⁵ *Id.*; Baldwin 8403; Burns 25-406; Baldwin 8538. State Board of Health, *op. cit.*, Rules 9, 11, 10, 12, 17.

¹⁶ *Id.*; Burns 25-406; Baldwin 8538.

¹⁷ *Id.*; Burns 25-406; Baldwin 8538. State Board of Health, *op. cit.*, Rule SE 7(9) n 86.

¹⁸ State Board of Health, *op. cit.*, Rule 72, p. 14; *Blay v. Beach*, 154 Ind. 121, 56 N. E. 80 (1900); *State ex rel. Harlan v. Smith*, 75 Ind. 2, 60 N. E. 47 (1901).

¹⁹ Acts 1901, Burns 25-406; Baldwin 8403; Acts 1917, Burns 25-60, n 25 CC; Baldwin 8538, 8540. State Board of Health, *op. cit.*, Rules 1, 7, 17, pp. 79, 80, 26.

²⁰ Acts 1901, Burns 25-406; Baldwin 8403; Burns 25-406. State Board of Health, *op. cit.*, Rule 27, p. 75.

²¹ State Board of Health, *op. cit.*, Rule 28, p. 76.

move from one health jurisdiction to another;⁵⁷ must take all reasonable and necessary precautions against spreading diseases to which he has been exposed;⁵⁸ approves claims which are to be submitted to the board of commissioners in connection with the destruction of personal property to prevent the spread of disease;⁵⁹ and dismisses schools at which there are not 225 cubic feet of air space for each pupil.⁶⁰

He orders the destruction of domestic animals which have been exposed to certain diseases contrary to quarantine regulations;⁶¹ sends, or assists in sending, heads of animals to the State laboratory for scientific examination to determine whether the animals were rabid;⁶² formerly referred indigent persons bitten by a dog, known or supposed to have hydrophobia, to the State Board of Health for the Pasteur treatment;⁶³ formerly ordered hydrophobia-infected animals quarantined or killed;⁶⁴ and formerly, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of all animals, of kinds designated by him, within his jurisdiction, with the consent and aid of the sheriff.⁶⁵

He receives a book of instructions and various printed forms from the State Board of Health;⁶⁶ keeps complete records of his work;⁶⁷ and makes weekly,⁶⁸ monthly,⁶⁹ quarterly,⁷⁰ and other reports to the State Board of Health.⁷¹ A

⁵⁷ *Ibid.*, Rule 18, p. 16.

⁵⁸ *Ibid.*, Rule 13, p. 14.

⁵⁹ Acts 1903; Burns 35-407; Baldwin 8537.

⁶⁰ State Board of Health, *op. cit.*, Rule 28, p. 26.

⁶¹ *Ibid.*, Rule 26(2), p. 26.

⁶² Acts 1935; Burns, 1941 suppl., 35-711; Baldwin, 1935 suppl., 3863-1. State Board of Health, *op. cit.*, Rule LB4, p. 32.

⁶³ Acts 1911, ch. 98, sec. 3 (repealed by Acts 1935, ch. 271, sec. 1). State Board of Health, *op. cit.*, Rules 41-43, p. 28.

⁶⁴ Acts 1911, ch. 98, sec. 4 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁵ Acts 1911, ch. 98, sec. 5 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁶ Acts 1907, 1913; Burns 35-116; Baldwin 8399. State Board of Health, *op. cit.*, pp. 3, 4, 12.

⁶⁷ Acts 1891, 1909; Burns 35-111, 35-115; Baldwin 8405, 8398. State Board of Health, *op. cit.*, Rules 3, 4, 6, 7, pp. 9-12.

⁶⁸ State Board of Health, *op. cit.*, Rule 6, p. 11.

⁶⁹ Acts 1907, 1919, 1929, 1935; Burns, 1941 suppl., 35-703; Baldwin, 1935 suppl., 13394. State Board of Health, *op. cit.*, Rules 3, 4, pp. 9, 10.

⁷⁰ State Board of Health, *op. cit.*, Rule 1, 5, pp. 9, 11.

⁷¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1941 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. State Board of Health, *op. cit.*, Rule 10, p. 13.

retiring health officer may keep possession of the books of his office for 10 days after surrendering his office to his successor, in order to make reports for the last month of his incumbency; and, after such 10 days, said books (including book of instructions) and all blank forms and supplies must be delivered to the new incumbent, who must immediately bring all records up to date.⁷²

All of the records of the county health officer are in his office.

401. RECORD OF COUNTY BIRTHS, 1883-. 11 vols.

Record of births reported to county health office, showing date and place of birth; name, sex, and color of child; names, addresses, and occupation of parents; family birth record; and name and address of attending physician. Arr. chron. by date of birth. Indexed alph. by name of child. Hdw. 100 pp. 18 x 12 x 1½. Hlth. offr. off., 121 E. Market St., Bluffton, Ind.

402. RECORD OF DEATHS, 1883-. 7 vols.

Record of deaths reported to county health officer, showing date of filing; date, place, and cause of death; name, age, sex, and place of birth of deceased; and names of attending physician, mortician, and burial place. Arr. chron. by date of death. No index. Hdw. 125 pp. 18 x 12 x 1½. Hlth. offr. off., 121 E. Market St., Bluffton, Ind.

403. MARRIAGE RECORD, 1883-. 11 vols.

Record of marriages reported by clerk to county health officer, showing date of report; date and place of marriage; names, ages, color, occupations, and places of births of bride and groom; and names of parents, witnesses, and officiator of marriage ceremony. Arr. chron. by date of marriage. Indexed alph. by name of groom. Hdw. 200 pp. 16 x 12 x 1½. Health offr. off., 121 E. Market St., Bluffton, Ind.

404. RECORD OF DISEASES, 1895-1900, 1912-. 2 vols.

Record of contagious diseases reported to county health officer, showing dates of report and quarantine; name, age, sex, color, and address of patient; name of attending physician; and nature and duration of disease. Arr. chron. by date of reports. No index, 1895-1900; indexed alph. by name of patient, 1912-. Hdw. 200 pp. 18 x 12 x 1½. Health offr. off., 121 E. Market St., Bluffton, Ind.

⁷² State Board of Health, *et al.*, Rule (C), p. 12

XXXVII. PUBLIC HEALTH NURSE

LEGAL STATUS

The office of public health nurse has existed in Wells County since 1937 under the permissive provisions of an act of 1935. She is appointed for an indefinite term by the board of commissioners (subject to the approval of the Indiana State Board of Health). She may be removed from office at any time by the board of commissioners without charges being made against her.¹ The nurse must be "legally qualified"; must have been suitably trained in sanitary science;² must have knowledge of mental hygiene and nutrition;³ must be of vigorous health; must demonstrate that she has high ideals, that she acts in accordance with ethical standards, and that she can be depended on to exercise good judgment; must be industrious and efficient; and must have "ability to get on well with other people."⁴ Her compensation is fixed by the board of commissioners and included in an appropriation by the county council. There are no statutory limitations on the amount of her compensation.⁵

FUNCTIONS AND RECORDS

The public health nurse devotes her entire time to the duties of her office in protecting and supervising the general health and sanitation in the county; performs such duties as are prescribed by regulations of the State Board of Health;⁶ helps to secure early medical diagnosis and treatment for sick, diseased, and ailing persons; renders or arranges for necessary nursing care; teaches through demonstration the care to be given by relatives and attendants of sick, diseased, and crippled persons and invalids, and supervises

¹ Acts 1935; Burns, 1941 suppl., 35-113, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. Commissioners' Record U: 305, entry 2. Letter of March 6, 1940, from James P. Wason, Deputy Attorney General of Indiana, to Dr. Christopher B. Coleman, director of the Indiana Historical Bureau, concerning the term of office and removal of public health nurses. Information obtained from Dr. John W. Ferree, director of the State Board of Health, on January 20, 1941, by William E. Chambers.

² Acts 1935; Burns, 1941 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

³ Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on May 17, 1940, by W. Davis Hamilton.

⁴ Regulation adopted by State Board of Health on February 17, 1940.

⁵ Acts 1935; Burns, 1941 suppl., 35-113; Baldwin, 1935 suppl., 8404-6.

⁶ *Id.*

such care; assists families and individuals to plan and carry out medical, sanitary, and social procedures for the prevention of disease and the promotion of health; helps to secure adjustment of social conditions which affect health; influences the community to develop public health facilities through participating in appropriate channels of community education for the promotion of a sound and adequate community health program; shares in community action leading to betterment of health conditions; participates in programs for the prevention of physical and mental handicaps of children; and assists in the education of handicapped children. Her duties extend to the following specific subjects: Maternity, infant and preschool health, school health, adult health, communicable diseases in general, tuberculosis, syphilis, gonorrhea, noncommunicable diseases in general, orthopedic service, vital statistics, sanitation, nutrition, and mental hygiene.

Concerning maternity, the nurse assists in securing medical and dental examination and supervision early in pregnancy and throughout the antepartum period; assists in planning and preparing for confinement and in securing a postpartum medical examination; gives assistance at home confinements and care to the mother and baby during the postpartum period; helps the family to carry out specific medical advice as to maternal hygiene and infant care; and participates in promoting adequate resources for maternity care through utilizing appropriate channels of community education.

Concerning infant and preschool health, the nurse assists in securing complete birth registration; assists in securing medical supervision, dental examination, and correction of defects for every child; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; and assists the family to carry out general and specific medical instruction concerning hygiene and the daily regime of the child, including instruction of parents in the desirability of early establishment of sound health habits.

Concerning school health, the nurse participates in formulating and developing a health education program based on the needs of the pupils; assists physicians and dentists in

⁷ Information obtained from Dr. Verne K. Harvey, director of the State Board of Health, on May 17, 1940, by W. Davis Hamilton.

⁸ *Ibid.*

⁹ *Ibid.*

the examination of pupils and the interpretation of findings to teachers, parents, and children; teaches the value of adequate health supervision and facilities for medical and nursing care, and assists in securing corrections of defects; inspects pupils; instructs teachers, parents, and pupils to observe and recognize deviations from normal health; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; promotes the maintenance of a healthful school environment—physical, emotional, and social; arranges for the care of emergency and minor injuries and illnesses in accordance with standing medical orders; develops relationships to coordinate school nursing activities with all other health forces of school, home, and community and to promote community health resources; participates in curriculum making; and instructs classes in the principles of healthful living and care of the sick.¹⁰

Concerning adult health, the nurse encourages periodic health examinations; teaches the fundamentals of personal hygiene in order to assist in the prevention and retardation of those diseases specific to adult life; and assists in securing early diagnosis and treatment of those diseases.¹¹

Concerning communicable diseases in general, the nurse promotes the complete reporting of reportable diseases; teaches the need of medical care; assists the family to carry out isolation and general and specific medical instructions; interprets health department procedure to individuals and groups; assists in making epidemiological investigations; instructs parents, teachers, and other individuals and groups to recognize early symptoms, to isolate suspicious cases, to carry out proper precautions, to prevent the spread of disease, and to appreciate the importance of adequate convalescent care; and helps under medical direction to secure specific immunization.¹²

Concerning tuberculosis, the nurse assists in finding cases (persons infected) and contacts (persons exposed) and obtaining reports of all cases; assists in making epidemiological investigations; helps to arrange for sanatorium and postsanatorium care and rehabilitation of the patient when indicated; teaches the patient and family the importance of

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

personal hygiene and the precautions to be taken to prevent the spread of the disease; helps the patient and his family to maintain a mental and social adjustment toward a long-term communicable disease; helps to educate the public concerning the unmet needs of the community for the prevention, control, and care of tuberculosis; and assists in integrating services of clinics, sanitoriums, private physicians, health department, and other related health and social agencies.¹³

Concerning syphilis and gonorrhea, the nurse assists in finding cases (persons infected) and contacts (persons exposed); assists in making epidemiological investigations; promotes the reporting of cases; promotes continued treatment through assisting the patient to follow prescribed routines; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of these diseases; and teaches scientific facts to individuals and groups to help eliminate the stigma inflicted by modern society upon the victims of these diseases.¹⁴

Concerning noncommunicable diseases, the nurse assists in securing special care for patients having special types of disability, such as orthopedic and cardiac conditions, arthritis, diabetes, and cancer; observes and assists in adjustment of health situations in the homes of patients; teaches general hygiene and the prevention of disease; and puts the family in touch with community resources.¹⁵

Concerning orthopedic service, the nurse assists in finding orthopedic cases; observes and helps others to recognize environmental conditions or habits which might produce postural or other orthopedic defects, and helps to eliminate such conditions or habits; observes and helps to eliminate conditions for bed patients which might cause contractures, foot drop, or spinal curvature; observes and teaches others to recognize signs of orthopedic defects; gives or obtains skilled physiotherapy treatment under medical direction to prevent deformities and to secure maximum return of power to muscles and joints; and teaches the patient and his family the importance of self reliance on the part of the crippled person, promoted by encouraging independence in daily routines and interest in useful occupations.¹⁶

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

Concerning vital statistics, the nurse teaches, as a part of the antepartum care, the value of birth registration and the importance of accurate statements on the birth certificate; makes sure that all births are registered before closing maternity cases; reports to the county health officer all births and stillbirths known to the nurse; and assists in morbidity and mortality studies which are useful in determining needs and formulating programs.¹⁷

Concerning sanitation, the nurse ascertains the source of water supply and the means of excreta disposal in the homes visited by her, and notifies the county health officer when these do not appear to be safe; teaches the importance of correcting unsatisfactory conditions, and the methods of immediate protection pending their correction; observes the ventilation and screening in the homes visited; teaches the importance of screens; inquires concerning the source of the milk supply; and teaches standards and the importance of sanitary methods of milk production and handling.¹⁸

Concerning nutrition and mental hygiene, the nurse uses the resources of the community which contribute to good nutrition; observes signs of poor nutrition and their contributing conditions; instructs families concerning the relationship of nutrition to health and normal growth and development; assists families to adapt nutrition information to their own economic and social situations; keeps in mind the variations in human behavior and their significance; uses the mental health resources of the community; and tries to make more productive all contacts with families and individuals.¹⁹

In accordance with the regulations of the State Board of Health, the public health nurse makes reports to the county health officer, the State Board of Health, physicians, and cooperating agencies, and keeps records of her work. Special care must be taken to make these reports and records as accurate as possible.²⁰

All of the records of the public health nurse are in her office.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

405. OPEN CASES, [Family Folder], 1937-. 21 f. b.

Contains:

- i. Histories of families, showing date of registration; name and address of family; names, ages, and sex of members of family; social and sanitary conditions of home; and health and death record.
- ii. Histories of maternity cases, showing names, ages, color, address, and places of birth of parents; dates of visits by nurse; name and address of attending physician; and memoranda on results of visits.
- iii. Histories of infant cases, showing dates of birth and visits by nurse; name, sex, color, and place of birth of infant; names and address of parents; and medical history of mother.
- iv. Histories of crippled children, showing dates of visits; name, date of birth, age, sex, color, and health records of child; names, address, and occupations of parents; and memoranda on results of visits.
- v. Record of supervision for tuberculosis control, showing dates of examination, treatments, and discharge; name, age, sex, color, marital status, and address of patient; data relative to possible source of infection; name of attending physician; and record of hospital and clinic treatments.
- vi. Record of morbidity cases, showing dates of visits; name, date of birth, sex, color, address, and occupation of patient; name of attending physician; nature of illness; and memoranda on results of visits.
- viii. Record of preschool supervision of children, showing dates of visits; name, age, sex, color, and place of birth of child; names, ages, address, and occupation of parents; data relative to food, and general habits, observations, and conferences; and recommendations of nurse.

Arr. alph by family name. No index. Hdw. 9 x 10 x 18.

406. OFFICIAL TYPHOID IMMUNIZATION, Mothers classes, Mantoux [Tests], 1937-. 1 f. d.

Contains:

- i. Record of attendance to classes for expectant mothers, showing date of holding class; name, address, and number of children previously born

- to expectant mother; and name of attending physician. Arr. chron. by date of holding class.
- ii. Record of immunization of persons, against typhoid fever and diphtheria, showing date of immunization; name, age, sex, color, and address of person immunized; and name of attending physician. Arr. chron. by date of immunization.
- iii. Record of Mantoux tests given children; showing date of test; name, age, sex, and color of child; name and address of parents; and results of test. Arr. chron. by date of test.

No index. Hdw. 3 x 5 x 18.

407. SCHOOL RECORD, 1927- 1 f. d.

Record of health supervision of school children, showing name, address, date of birth, sex, and color of child; names and occupations of parents; names of school attended and family physician; disease record of child; number and nature of vaccinations; and results of nurse's supervision. Arr. chron. by name of child. No index. Hdw. and typed. 12 x 12 x 18.

408. DAILY REPORTS, 1937-. 1 f. b.

Copies of daily and monthly reports by nurse to board of commissioners, showing date of report, name of nurse, district number, number of miles traveled, classification and number of cases under supervision, nature and number of lectures given, names and addresses of patients, and summary of results. Arr. chron. by date of report. No index. Hdw. 6 x 9 x 18.

XXXVIII. COUNTY HOSPITAL BOARD

EVOLUTION AND STRUCTURAL ORGANIZATION

The county hospital board has existed in Valls County ever since 1918 under the permissive authority of acts of 1917, 1919, 1921, 1923, 1925, and 1927.¹ The board is composed of four members appointed by the board of commissioners for terms of four years beginning in different years. Not more than two members of the board may be residents of Bluffton in which the county hospital is located; not more than two members may be of the same political party or belief; two

¹ Acts 1917, ch. 144. Acts 1919, ch. 18. Acts 1921, ch. 87, 203. Acts 1923, ch. 115. Acts 1925, ch. 73. Acts 1927, chs. 52, 72.

members may be women; and no member may be a practicing physician.¹ A vacancy in the unexpired term of a member is filled through appointment by the board of commissioners.²

The board elects from among its members a chairman, a secretary, and such other officers as may be deemed necessary, and may adopt such rules and regulations as may be needed in the performance of its duties. The members receive the following annual compensation: Chairman, \$75; secretary, \$50; other members, \$25. The county treasurer serves as treasurer of the board without additional compensation. The board of county commissioners may require each member of the board to execute a bond. No member of the board may have a personal pecuniary interest, either directly or indirectly, in the purchase of any supplies for the hospital, unless the same are purchased by competitive bidding.

The board must hold a regular meeting at least once a month. Three members constitute a quorum for the transaction of business.³

FUNCTIONS AND RECORDS

The county hospital board has charge of the operation and maintenance of the county hospital; has exclusive control of the expenditure of all moneys collected for hospital purposes, the purchase or construction of all hospital buildings, and the care and custody of the grounds and improvements thereon used for hospital purposes; issues vouchers for all expenditures directed to the county auditor, who draws warrants upon the county treasurer for the amount thereof; appoints a superintendent of the hospital; fixes the compensation of all hospital employees; and performs all duties necessary in maintaining a county public hospital. The chairman of the board must inspect the hospital at least twice each month.

The board of commissioners may issue bonds for hospital purposes in such sum and in such amounts as may be certified by the hospital board as being necessary for hospital purposes. Such bonds must be in denominations of not less than \$100 and not more than \$1,000; must bear interest at a rate not exceeding

¹ Act 1911, Burns 21-211, Baldwin 1911.

² Act 1911, Burns 21-209, Baldwin 1911.

³ Act 1911, Burns 21-210, Baldwin 1911.

⁴ 1911.

⁵ 1911.

5 percent per annum; mature at times specified therein but may be redeemed at any time after five years; and must not be sold originally for less than par. The total amount of outstanding bonds issued by the county for hospital purposes may not exceed \$100,000.⁷

The hospital board may condemn property, approves all building plans, determines reasonable charges for hospital care for persons who are not indigents,⁸ may accept donations for the use of the hospital,⁹ cannot discriminate between physicians or schools of medicine,¹⁰ may establish and maintain a training school for nurses,¹¹ must provide a detention ward for insane patients,¹² may provide a special department for tuberculosis patients,¹³ may establish and equip a veterinary laboratory,¹⁴ and may determine whether or not patients are subjects of charity.¹⁵

The board is required to file an annual report with the board of commissioners the first week in August of each year, with a statement of all receipts and expenditures during the year and a complete inventory of all property other than real estate on hand the first day of August. At the same time the board submits a budget estimate of the amount necessary to maintain and improve the hospital for the ensuing year.

XXXIX. COUNTY DEPARTMENT OF PUBLIC WELFARE

EVOLUTION AND STRUCTURAL ORGANIZATION

The county department of public welfare has existed in Wells County ever since 1926 under the requirements of an

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- ⁷ Acts 1917, 1921, 1927; Burns 22-220; Baldwin 4521.
 - ⁸ Acts 1917; Burns 22-325; Baldwin 4523.
 - ⁹ Acts 1917; Burns 22-326; Baldwin 4524.
 - ¹⁰ Acts 1917; Burns 22-329; Baldwin 4527.
 - ¹¹ Acts 1917; Burns 22-321; Baldwin 4529.
 - ¹² Acts 1917, Burns 22-322; Baldwin 4530.
 - ¹³ Acts 1917, 1923, Burns 22-228, 22-324; Baldwin 4526, 4531.
 - ¹⁴ Acts 1917; Burns 22-234; Baldwin 4522.
 - ¹⁵ Acts 1917; Burns 22-323; Baldwin 4525.
 - ¹⁶ Acts 1917, Burns 22-326; Baldwin 4524.
 - ¹⁷ Acts 1917, Burns 22-327; Baldwin 4525.
 - ¹⁸ Acts 1917; Burns 22-328; Baldwin 4529.

act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Wells County." It may sue and be sued in that name.

Before the present system of welfare was organized, the county administered aid to the poor and needy (including children, insane persons, and blind persons) through discretionary powers granted to the board of county commissioners. County asylums were established at an early date to care for those who were without homes and means to care for themselves.²

An act of 1933 provided a system of old-age pensions in all counties of the State.³ The board of commissioners of each county had exclusive control and administration of the pensions.⁴ Pensions up to \$15 per month were authorized for persons who had attained the age of 70 years. Many provisions of this law were similar to provisions contained in the present welfare law.⁵ In counties with 500 or more applicants

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14073-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9 sec. 4. Const. 1851, art. 9, sec. 3. Rev. L. 1831, ch. 29, sec. 20; ch. 69. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 52, sec. 3; ch. 73, sec. 2; ch. 79. Acts 1839-40 (general), ch. 51. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71; ch. 19. Acts 1849-50 (general), ch. 13. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81; ch. 110, secs. 5, 17. Acts 1857, ch. 5. Acts 1859, ch. 5, sec. 1. Acts 1865, ch. 40. Acts 1865 (Spec. Sess.), ch. 7, sec. 3. Acts 1873, ch. 41, sec. 1. Acts 1875, ch. 119, secs. 1, 2. Acts 1884, ch. 7. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1887, ch. 56, sec. 1. Acts 1889, ch. 78, sec. 3; ch. 107, secs. 1, 9. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1899, chs. 76, 87; ch. 90, secs. 3, 6; ch. 104, sec. 33. Acts 1901, chs. 147, 155, 195, 206. Acts 1903, chs. 106, 144, 247. Acts 1907, ch. 65, sec. 1, 2. Wayne Twp. v. Brown, 205 Ind. 437, 186 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Acts 1827-28, ch. 46, sec. 1. Rev. Stat. 1838, ch. 74, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 28, 32; ch. 68, sec. 3. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81, sec. 10. Acts 1885, ch. 36, sec. 1. Acts 1885 (Spec. Sess.), ch. 34. Acts 1887, ch. 26. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Acts 1859-60 (general), ch. 52, sec. 1. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8.

Blind. Acts 1859-60 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

⁴ Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁵ *Ibid.*, sec. 2.

⁶ *Ibid.*, secs. 3-7.

for pensions, the board of commissioners could employ one investigator for each 500 applicants at a salary set by the board of commissioners, not to exceed \$1,800 annually.⁷

The methods of welfare assistance mentioned in the last paragraph and in the separate essay entitled "Board of Children's Guardians (1901-36)" were merged into the Welfare Act of 1936 (the present law),⁸ which is discussed in detail in the section entitled "Welfare assistance" in the essay entitled "Governmental Organization and Records System."

Since 1897 township poor relief has been administered by township trustees from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of this office.¹⁰

The judge of the circuit court may, at any time after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.¹¹

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call.

⁷ *Ibid.*, sec. 26.

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

⁹ Acts 1897, ch. 151. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1941 suppl., 52-145 to 52-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

Three members of the board constitute a quorum for transacting business.¹²

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and State conventions of county board members.¹³

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the State Department of Public Welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.¹⁴

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the State Department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the State Department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the State Department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the State Department may appoint a successor to serve at the pleasure of the State Department.¹⁵

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare,

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Const. 1903, art. 1, sec. 4. 1 Key Stat. 1902, Burns 47-101, Baldwin 1054. Acts 1906

(Spec. Sess.), 1907, Burns 144 (amended), 1910 (Baldwin 1077) and 1915 (20

¹⁵ Acts 1906 (Spec. Sess.), 1907, Burns 144 (amended), Baldwin 1077, suppl., 1915 (20

within the salary ranges established by the State Department. In Wells County this salary is now \$1,400 per year. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.¹⁶

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the State Department of Public Welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.¹⁷

FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the State Department of Public Welfare, the county department is charged by statute with the administration of old-age assistance; aid to dependent children in their own homes; the care and treatment of dependent, neglected, and handicapped children and those in danger of becoming delinquent; and services and assistance to the blind and to persons otherwise handicapped. The county director performs the duties prescribed by law for the probation officer of any court having jurisdiction of persons on probation (concerning any welfare matters before the court), when so directed by such court; but he cannot hold the office of probation officer. The county department must report to the State Department "at such times and in such manner as the State Department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.¹⁸

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁹ to which are added such repayments as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.²⁰

¹⁶ *Ibid.* Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on February 27, 1941, by William E. Chambers.

¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. Op. Atty. Gen. 1936, p. 155.

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

²⁰ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

As partial reimbursement for the amount paid for assistance to aged persons and dependent children, the county receives 50 percent from the Federal Government and 60 percent of the remainder from the State.²¹ Any funds received by the State from the Federal Government for child welfare and the care and treatment of crippled children are divided among the counties as the State Board may determine.²² For personal services in the county administration of the welfare act, the county receives 50 percent from the State, plus a proportional part of such other funds as may be received by the State from the Federal Government to apply on administrative expenses. These reimbursements are paid into the county welfare fund.²³

All claims for administrative expenses are subject to allowances by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.²⁴ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²⁵

The auditor keeps the records relating to the county welfare fund and its financial transactions.²⁶ The county department keeps such records and accounts as are required by the State Department of Public Welfare.²⁷ All records are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.²⁸

All records of the county department of public welfare are in this office, except as otherwise indicated in the entries.

²¹ Acts 1926 (Spec. Sess.); Burns, 1941 suppl., 52-1249, 52-1220; Baldwin, 1937 suppl., 14078-80, 14078-51.

²² Acts 1935 (Spec. Sess.); Burns, 1941 suppl., 52-1254, 52-1258; Baldwin, 1937 suppl., 14078-85, 14078-89.

²³ Acts 1936 (Spec. Sess.), 1937; Burns, 1941 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a. Information obtained from Thurman A. Gottschalk, administrator of the State Department of Public Welfare, on December 20, 1940, by William E. Chambers.

²⁴ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁵ Acts 1926 (Spec. Sess.); Burns, 1941 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

²⁶ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²⁷ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1260, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

²⁸ Acts 1936 (Spec. Sess.); Burns, 1941 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

PROCEEDINGS

409. [MINUTES], 1936-. 1 vol.

Minutes of business transacted at meeting of county board of public welfare, showing date of meeting, names of members present, business discussed, and action taken. Arr. chron. by date of meeting. No index. Typed. 250 pp. 14½ x 9½ x 1½. Welf. off.

410. RECOMMENDATIONS, 1936-. 1 vol.

Record of recommendations by county director and actions by county board of public welfare pertaining to welfare cases, showing dates of recommendation and action, name of applicant, date and number of application, and nature of recommendation and action taken. Arr. chron. by date of recommendation. No index. Typed. 250 pp. 12 x 5 x 2. Welf. off.

OLD-AGE ASSISTANCE

(See also entries 416, 430, 431, 435)

411. MASTER INDEX, 1936-. 1 f. d.

Card record of welfare cases, showing date, number, and nature of application, name and address of applicant, and record of action taken. Arr. alph. by name of applicant. No index. Typed. 5 x 17 x 16. Welf. off.

412. REGISTER OF APPLICATIONS, 1936-. 1 vol.

Record of applications for old-age assistance, showing date and number of application; name, address, age, and sex of applicant; name of visitor; and action taken. Arr. chron. by date of application. No index. Typed. 35 pp. 9 x 15 x 1. Welf. off.

413. OLD-AGE ASSISTANCE [Active], 1936-. 3 f. d.

Original documents in cases covering active old-age assistance consisting of applications, statements of relatives, visitors' reports, certificates of awards, certificates of withdrawal of assistance, and property assignments, showing date and nature of document; application and certificate numbers; name, age, address, and family history of applicant; and amount of award. Arr. numer. by application no. No index. Hdw. and typed. 11 x 15 x 27. Welf. off.

For copies of old-age assistance award certificates, see entries 110, 353i; for copies of certificates of change of award, see entry 353ii; for copies of certificates of withdrawal of assistance, see entry 353iii; for abstracts of old-age assistance award certificates, see entry 111.

414. OLD-AGE ASSISTANCE [Inactive], 1936-. 1 f. d.

Original documents in cases covering old-age assistance consisting of applications, statements, visitors' reports, certificates of awards, rejections, revocation, withdrawals, and property assignments, showing information as in entry 413, and also reason for rejection, revocation, or withdrawal. Arr. numer. by application no. No index. Hdw. and typed. 11 x 16 x 27. Welf. off.

For copies of old-age assistance award certificates, see entry 110; for abstracts of old-age assistance award certificates, see entry 111.

415. [ALLOWANCE SCHEDULES], 1936-. 1 vol.

Contains:

- i. Schedules of allowances for aid to dependent children, showing date of schedule; application and warrant numbers; name of child; name and address of payee; amounts of local and Federal allotment; and total allowance.

For copies of schedules of allowances, see entry 350vi.

- ii. Schedules of allowances for old-age assistance, showing date of schedule, name and address of payee, amount of local and Federal allotment, total allowance, and application and warrant numbers.

For copies of schedules of allowances, see entry 357.

Arr. chron. by date of schedule. No index. Typed. 575 pp. 17 x 11 x 3½. Welf. off.

416. OLD-AGE CERTIFICATES, 1933-35. 1 f. b.

Old-age pension applications showing information as in entry 412. Arr. chron. by date of application. No index. Hdw. and typed. 11 x 5 x 14. Aud. off.

417. OLD-AGE PENSION RECORD, 1933-35. 1 vol.

Transcripts of old-age pension applications; name, address, age, sex, color, and family history of applicant; statement of ownership of property; date and nature of action taken; and amount awarded. Arr. alph. by name of applicant. No index. Hdw. and typed. 600 pp. 16 x 13 x 3. Welf. off.

418. RECORD OF ASSISTANCE GIVEN AGED PERSONS [Active]. 1936-. 1 vol.

Records of awards granted and payments made to the aged, showing application number, name and address of recipient, amounts paid under acts of 1933 and 1936, amounts paid by

county of former residence, assignments of life insurance and other assets, and dates, numbers, and amounts of warrants. Arr. numer. by application no. No index. Typed. 350 pp. 9 x 15 x 2. Welf. off.

419. RECORD OF ASSISTANCE GIVEN AGED PERSONS [Inactive], 1936-. 1 vol.

Record of awards granted and payments made to the aged during reciprocity period, showing information as in entry 418. Arr. numer. by application no. No index. Typed. 350 pp. 9 x 15 x 2. Welf. off.

DEPENDENT CHILDREN

(See also entries, 410, 411, 415i).

420. REGISTER OF APPLICATIONS, 1936-. 1 vol.

Record of applications for aid to dependent children, showing date and number of application; name and address of applicant; name, age, sex, and color of child; name of visitor; and action taken. Arr. chron. by date of application. No index. Typed. 35 pp. 9 x 15 x 1. Welf. off.

421. CHILD WELFARE, 1936-. 2 f. d.

Original documents pertaining to active and inactive cases of aid to dependent children, consisting of applications, visitors' reports, recommendations, and certificates of awards, certificates of change of award, rejections, and withdrawals, showing date and nature of document, application number, name, age, color, and family history of child; name and address of parent, guardian or custodian of child; and amount of award. Arr. numer. by application no. No index. Hdw. and typed. 11 x 16 x 27. Welf. off.

For copies of certificates of award, see entry 352i; for copies of certificates of change of award, see entry 352ii.

422. CHILD WELFARE, 1936-.

Contains:

- i. Foster home applications, showing date and number of application, names of applicant and visitor assigned, and number and sex of children requested.
- ii. Record of payments of allowances for aid to destitute children, showing information as in entry 426.
- iii. Record of payments of allowances for aid to dependent children who are public wards in custody of institutions or individuals, showing information as in entry 426.
- iv. Schedules of allowances for aid to destitute children, showing information as in entry 415.

Arr. numer. by application no. No index. Typed. 130 pp. 9 x 15 x 1½. Wellf. off.

423. FOSTER HOMES, 1936-. 1 f. d.

Original documents pertaining to active and inactive foster home cases, consisting of: Visitors' reports, reports of admission of children to foster home, transfers while under foster home care, discharge from foster home, family record face sheets, face sheets of child's personal record, child's medical record, and rejections of applications, showing date and nature of document; application number; name and address of applicant; age and sex of child applied for; name, age, and sex of child admitted to foster home; and personal and family record of child. Arr. numer. by application no. No index. Hdw. and typed. 11 x 16 x 27. Wellf. off.

424. CRIPPLED CHILDREN, Aug. 23, 1937-. 1 vol.

Contains:

- i. Register of applications, showing dates of application, filing, visitor assignment, and physical examination; application number; name, age, and physical description of child; names of visitor assigned and examining physician; and date and nature of action taken.
- ii. Individual record of services to crippled children, showing date and number of application; name, age, sex, and nature of affliction of child; dates and nature of services rendered; date, nature, and number of warrant; and name of payee.
- iii. Record of claims paid for services to crippled children, showing date, number, nature, and amount of claim and warrant; names and addresses of payee and child; application number; and certification by director and county auditor.

Arr. numer. by application no. No index. Typed. 75 pp. 9 x 15 x 1. Wellf. off.

425. CRIPPLED CHILDREN, 1937-. 1 f. d.

Original documents pertaining to active and inactive cases of services to crippled children, consisting of application for service, visitors' reports, recommendations, notices of admission to hospital, and authorizations for transportation. Showing date and nature of document; application number; names and addresses of parent, guardian or custodian of child; name, age, sex and nature of affliction of child; name of attending physician and hospital; and employment, family, and financial record of parent, guardian or custodian. Arr. numer. by application no. No index. Hdw. and typed. 11 x 16 x 27. Wellf. off.

(426-430) COUNTY DEPARTMENT OF PUBLIC WELFARE

426. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN [Active], 1936-. 1 vol.

Record of payments of allowances for aid to dependent children, showing application number; name, age, and sex of child; name and address of payee; date and amount of award; date, number, and amount of warrant; and total payments for year. Arr. numer. by application no. No index. Typed. 150 pp. 9 x 15 x 1. Welf. off.

427. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN [Inactive], 1936-. 1 vol.

Record of inactive cases of aid to dependent children, showing information as in entry 426. Arr. numer. by application no. No index. Typed. 150 pp. 9 x 15 x 11. Welf. off.

BLIND

(See also entries 410, 411, 430, 431, 435).

428. REGISTER OF APPLICATION, 1936-. 1 vol.

Record of applications for aid to blind, showing date and number of application; name, age, sex, and address of applicant; and action taken by State Department of Public Welfare. Arr. chron. by date of application. No index. Typed. 35 pp. 9 x 15 x 1. Welf. off.

429. BLIND ASSISTANCE, 1936-. 1 f. d.

Original documents pertaining to active and inactive cases of assistance to blind, consisting of applications, visitors' and physicians' reports, and certificates of award, rejections or withdrawals, showing date and nature of document; application number; name, age, sex, color, address, and family history of applicant; names of visitor, physician, and guardian; and amount of award. Arr. numer. by application no. No index. Hdw. and typed. 11 x 16 x 27. Welf. off.

SETTLEMENTS OF ESTATES

430. ESTATE OF DECEASED RECIPIENTS, 1936-. 1 f. d.

Documents pertaining to settlement of estates of deceased persons who were recipients of public assistance before death, consisting of appraisals of estates, claims, and court orders, showing date and nature of document; names of recipient, court, and claimants; application and cause numbers; value of estate; amounts and nature of claims; and disposition of cause. Arr. alph. by name of recipient. No index. Hdw. and typed. 16 x 5 x 27. Welf. off.

431. [ESTATE CLAIM REGISTER], Jan. 20, 1937-. 1 vol.

Register of claims against estates of persons who were recipients of public assistance before death, showing dates and amounts of claim and allowance; names of recipient, court, and claimants; and application, claim, and cause number. Arr. numer. by claim no. No index. Hlw. 20 pp. 12 x 15 x 1. Wellf. off.

CLAIMS

432. REGISTER OF CLAIMS FILED & WARRANTS ISSUED, 1936-. 1 vol.

Register of claims filed and warrants issued for administrative expenses, showing number and amount of appropriation, date and amount of claim, date of filing and approval or rejection, date, nature, number, and amount of warrant; and names of payee and fund. Arr. chron. by date of filing. No index. Typed. 75 pp. 12 x 5 x 1. Wellf. off.

For original claims, see entry 15.

433. CERTIFICATION OF COUNTY CLAIM REGISTER TO STATE DEPT [ar] T [ment], 1936-. 1 vol.

Copies of county directors and auditor's certification to State Department of Public Welfare of the monthly report of claims paid, showing number of pages of report, dates of report and certification, and total amount of claims paid. Arr. chron. by date of report. No index. Typed. 12 x 9 x 1. Wellf. off.

For other copies of certification of claims, see entry 350iv.

RECEIPTS AND DISBURSEMENTS

434. REPORTS OF ALLOWANCE AND DISBURSEMENTS, 1936-. 1 vol.

Record of appropriations, receipt, and disbursements, showing number and amount of appropriation; name of fund; and dates, numbers, and amounts of warrants. Arr. by name of fund and chron. thereunder by dates of appropriation and warrant. No index. Typed. 400 pp. 12 x 8 x 2 1/2. Wellf. off.

435. REPORT BOOK, 1936-. 1 vol.

Copies of receipts issued to persons reimbursing county department of public welfare for assistance granted, showing date, number, amount, and amount of receipt; case number; and names of payer and fund. Arr. chron. by date of receipt. No index. Hlw. 275 pp. 17 x 9 x 1 1/2. Wellf. off.

XL. BOARD OF CHILDREN'S GUARDIANS (1901-36)

LEGAL STATUS

From 1901 until 1936 Wells County had a board of children's guardians, composed of six members appointed for 3-years terms by the judge of the circuit court. Two members were appointed each year. Three members were women and three or more were parents.¹

FUNCTIONS AND RECORDS

This board had the care and supervision of neglected and dependent children residing in the county. The board could indenture children as apprentices, authorize adoption without the consent of parents, or make other suitable disposition of such children. The action of the board was subject to the approval of the circuit court.² The board of commissioners had the authority to provide a house of suitable size and convenience for the accomodation of the children placed in the custody of the board of children's guardians. The board of commissioners provided funds necessary for employment of agents and assistants of the board of children's guardians, and for defraying all operating expenses of the home, and made an allowance of 30 cents per day for food and clothing of each child under the care of the board of children's guardians.³

This board was abolished in 1936, and its duties were transferred to the county department of public welfare.⁴

XLI. SURVEYOR

LEGAL STATUS

The office of surveyor has existed in Wells County since 1837 under the requirements of acts of 1831, 1833, 1838, and 1843 and the Constitution of 1851. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.¹ His term begins on the first day of January

¹ Acts 1901, 1923, 1927; Burns 22-2801; Baldwin 5684.

² Acts 1901, 1923; Burns 22-2802; Baldwin 5685.

³ Acts 1901, 1919, 1923, Burns 22-2805; Baldwin 5688.

⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122. See the essay entitled "County Department of Public Welfare."

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 15 and 16 herein.

following his election.³ He is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁶ must reside within the county after his election, and must not hold any other lucrative office.⁷ He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court,⁸ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁹

The surveyor is entitled to receive a regular salary of \$925 per year for his services as county surveyor. The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer." While serving as county highway supervisor he is entitled to receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). He cannot receive both salaries. When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage and 5 cents for each mile necessarily traveled in the discharge of his duties as county highway supervisor. He is not entitled to

³ Acts 1929; Burns 49-207; Baldwin 5506.

⁴ Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3. Acts 1822-23, ch. 76, sec. 2. Pursel v. State ex rel. Roney, 111 Ind. 519, 12 N. E. 1003 (1887), Boyles v. State ex rel. Riggs, 112 Ind. 147, 13 N. E. 415 (1887).

⁶ Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor Op. Atty. Gen. 1939, p. 269.

⁷ Const. 1851, art. 2, sec. 9, art. 6, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1858, ch. 103, sec. 1. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914). Op. Atty. Gen. 1934, p. 500; 1935, p. 103.

⁸ Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1858, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 49-101; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-120. Baldwin 12063, 12068. Acts 1915; Burns 49-102 to 49-104; Baldwin 5505 to 5507.

⁹ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1858, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 49-105; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1925, ch. 120, sec. 1. Acts 1913, Burns 27-101, 35-1101, 36-1110, 49-1034, 49-1010,

retain, as compensation for himself, any fees collected by him.¹⁰

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person. If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.¹¹

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor. The appointee holds office for the unexpired term and until his successor is elected and qualified.¹²

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary; determine whether they be full-time or part-time employees; and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. Each deputy must take an oath of office, may perform all of the surveyor's official duties, is subject to the same regulations and penalties, and may be removed from office by the board of commissioners. Each township trustee is an ex officio deputy surveyor (without additional compensation) in his townships.¹³

Baldwin 5739, 8699, 8078, 7534, 7540.

He receives no additional compensation for doing engineering work for the county highway supervisor. Op. Atty. Gen. 1939, p. 269.

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7555.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Stat. 1843, ch. 10, sec. 3. Acts 1897, 1899; Burns 49-821 to 49-834, 49-826, Baldwin 13154 to 13166, 13050, 13168. Acts 1876; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.), Burns 20-701; Baldwin 7681. 1 Rev. Stat. 1843; Burns 49-406, 49-408, 49-409; Baldwin 13104, 13106, 13107. State ex rel. Culbert v. Linkhauer, 142 Ind. 64, 41 N. E. 525 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1817 (general), ch. 10, sec. 3. Rev. L. 1824, ch. 101, sec. 2. Acts 1827-28, ch. 49. Rev. L. 1831, ch. 142, secs. 2, 4. Rev. Stat. 1838, ch. 101, sec. 2, 4. Rev. Stat. 1843, ch. 10, secs. 20, 22. Acts 1853; Burns 27-10, Baldwin 778. 1 Rev. Stat. 1852, Acts 1855, 1856; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1858; Burns 49-502, 49-503, 49-507, Baldwin 13109, 5511, 5512. Acts 1859; Burns 49-5306, Baldwin 5412. Acts 1863, 1865, 1867, Burns, 1941 suppl., 49-5330; Baldwin, 1937 suppl., 55111. Op. Atty. Gen. 1939, p. 269.

From the organization of Wells County in 1837¹⁵ until 1843 the surveyor was appointed for a 3-year term by the judge of the circuit court. From 1843 until 1851 the Board of commissioners made these appointments.¹⁶

FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county; has charge of the preparation of plans and specifications for the construction of all roads, bridges, ditches, drains, and levees; supervises such construction; has charge of the maintenance of all ditches and drains; acts with view-ers in locating new roads and ditches; must clean driftage and obstructions from streams when landowners refuse to do so; may advertise and let contracts for drainage ditches; must approve all contracted construction work before claims thereon are allowed; and formerly made inspections and surveys on certain lands owned by the United States Government, and made reports thereon to the Governor of the State. If the surveyor is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the mat-ter. From 1855 until 1933 the surveyor served ex officio.

¹² *Public Organization Act* (1900 (General)), ch. 23, sec. 2. *Acts 1900* (General), ch. 17, sec. 1.

¹ 18 A.C.S. 117 (1901), ch. 2, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. 1-1891, ch. 12, sec. 1. A.C.S. 1-1891, ch. 72, sec. 1, 3. Rev. Stat. 1838, ch. 17 (1840 ed.), sec. 1, ch. 10 (1844 ed.) sec. 1, 5. Rev. Stat. 1843, ch. 4, sec. 1, ch. 11, sec. 1.

⁷ Acts 1:1, ch. 10; sec. 4, ch. 16; secs. 3, 27, 28, Act 1901, ch. 100, s.c. 3, Acts 1902; Burns 27-11, 27-101, 27-107 to 27-109, 27-110 to 27-116, 27-22, Baldwin 5737, 5739, 5740, 5741 to 5745, 5747 to 5753, 5757. Acts 1901; Burns 27-106, 27-207, 27-227, Baldwin S. 64, S. 65, S. 67. Rev Stat 1897, Acts 1901, Burns 1-100, Baldwin 50-8.

Vol. One to Employees of Civilian Conservation Corps or Work Projects Administration
under supervision of the Forest Service. Acts 120, Burns, 1911 suppl., 17-18, Baldwin, 1933
suppl., 304-9.

Act 1177, Burns 27-169, Baldwin 8153. Act 1180, Burns 26-221, Baldwin 8177.

¹⁹ Acts 19:23; Romans 7:5; 11:17-18.

At the 1980, March 23rd, P. 45-46-47-48

²¹ Adelman, *Immigration*, 160-61, 164-65, 167.

2. Involvement of the community in the development of the project.

¹⁸ Acts 18, ch. 34; Rev. L. 1791, ch. 101, sec. 3; Rev. L. 1811, ch. 102, sec. 3; Rev. L. 1816, ch. 102, sec. 1, 2; Acts 1807, ch. 102, sec. 2, 3; Acts 1807, Burns 271-2; Baldwin v. *State*, 1811, Burns 415, 7 *Atlantic* 106.

as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.²⁴

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.²⁵ Wells County now has a county highway supervisor other than the surveyor.²⁶ The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²⁷

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁸

The surveyor administers certain oaths,²⁹ takes acknowledgments of mortgages and deeds for the conveyance of real estate,³⁰ and makes surveys to establish lines and corners of any lands in the county when requested to do so.³¹ Surveys made by the surveyor are prima facie evidence in favor of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.³² For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.³³

²⁴ Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, sers. 1, 21. Acts 1933, ch. 264, sec. 81.

²⁵ Acts 1933; Burns 36-1101, 36-1110; Baldwin 8669, 8708.

²⁶ See the essay entitled "County Highway Supervisor."

²⁷ Acts 1925; Burns 49-3323; Baldwin 5520.

²⁸ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

²⁹ Acts 1927-28, ch. 69. Rev. Stat. 1838, ch. 103, sec. 4. 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

³⁰ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

³¹ Rev. L. 1831, ch. 102, sec. 6. Acts 1828-29, ch. 94, sec. 2. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1847, ch. 10, sec. 15. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510. Acts 1885; Burns 55-2102; Baldwin 14321.

³² 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314, Baldwin 5516.

³³ Rev. Stat. 1838, ch. 40, sec. 1. Rev. Stat. 1843, ch. 10, sec. 23. 1 Rev. Stat. 1852, ch. 37, sec. 1. Acts 1853, ch. 41, sec. 1. Acts 1903, ch. 38, sec. 2. Acts 1920; Burns 36-1809; Baldwin

The deputies return to the surveyor all field notes taken by them.²⁴ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,²⁵ and keep a record of all surveys made by him.²⁶

All records of the surveyor are in his office except as otherwise indicated in the entries.

SURVEYS

436. SURVEYOR'S RECORD, 1840-. 5 vols. (A, 1-4).

Record of field notes made from original United States and subsequent surveys, including a plat of each survey, showing dates of survey and recording; section, range, and Congressional township lines; section, range, and township numbers; and location of cornerstones and streams. Arr. numer. by section no. For index, see entry 437. Hdw. 300 pp. 18 x 13 x 2½. Surv. off.

437. INDEX TO SURVEYOR'S RECORD, 1840-. 2 vols.

Index to surveyor's record, entry 426, showing date of survey; plat drawing of each section; section, range, and Congressional township lines; section, township, and range numbers; and volume and page reference to recording. Arr. numer. by section no. Hdw. 36 pp. 18 x 22 x ½. Surv. off.

438. LEVEL BOOKS, undated. 315 vols.

Handbooks used by surveyor for recording field notes in surveys of roads, bridges, and ditches, showing location of survey; names of surveyor and road, bridge or ditch; levels; tracings; bench marks and location of cornerstones. No obvious arr. No index. Hdw. 50 pp. 5 x 8 x ½. 252 vols., attic strg. room; 63 vols., surv. off.

PUBLIC IMPROVEMENTS

439. GENERAL DITCH RECORD, 1885-1900, 1921-27, 1931-. 3 vols. (1-3). Title varies: Ditch Reports, 1885-1900, 1921-27, 2 vols.

Record of apportionment to property owners for cleaning and

²⁷ 9. Acts 1933; Burns 49 1005; Baldwin 7503. Acts 1875 (Spec. Sess.), Burns 49-3318; Baldwin 5521. Acts 1888, Burns 49 319; Baldwin 10851. Acts 1893, Burns 66 121; Baldwin 16187.

²⁴ 1 Rev. Stat. 1852; Burns 49 3307; Baldwin 5513.

²⁵ Rev. L. 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

²⁶ Rev. Stat. 1838, ch. 103 (second act), secs. 2, 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

report of disbursements showing names of paying upper landowner, beneficiary, and intermediate; and names of ditch and landowner. Arr. by name of ditch. No index. Hds. 1885-1900, 1921-27; typed 1931- 211 pp. 16 x 12 x 2. Surv. off.

440. ASSESSMENT REGISTER DITCH AND DRAINAGE, 1882-. 2 vols. Record of assessments for construction and repair of ditches, showing date and amount of assessment; names of ditch and landowner; location and description of land; amounts of installment delinquency, and amount of payment. Arr. by name of ditch. No index. Hds. 270 pp. 18 x 13 x 2 1/2. Surv. off.

441. RECEIPTS AND EXPENDITURES, DRAINAGE DISTRICT, 1882-1923. 2 vols.

Drainage commissioners' record of receipts and expenditures, showing date, nature, and amount of receipt, expenditure, and names of ditch, drainage commissioners, payor, and payee. Arr. by name of ditch and chron. thereunder by date of receipt and expenditure. Indexed alph. by name of drainage commissioner. Hds. 175 pp. 16 x 12 x 1 1/2. Surv. off.

442. SPRINKLER ACCOUNT DITCH AND DRAINAGE, 1883-91. 1 vol. Record of expenditures for ditch repairs, showing date, nature, and amount of expenditure and names of payee and ditch. Arr. by name of ditch and chron. thereunder by date of expenditure. No index. Hds. 200 pp. 16 x 11 x 2. Surv. off.

443. TILE DRAIN REPORT, 1875- 18 pigeonholes and 3 f. l. Title cards: Drainage Reports 1875-1930, 18 pigeonholes.

Original documents pertaining to construction and repair of ditches, consisting of proposals; reports of viewers, drainage commissioners, and engineers; estimates; specifications; bids; and contracts, showing date and nature of document; name of ditch, petitioner, viewers, drainage commissioners, engineers, bidders, and contractor; and amounts of estimates, bids, and contract. Arr. alph. by name of ditch. No index. Hds. and typed. Pigeonholes 12 x 14 x 1 1/2; f. l. 6 x 12 x 5 x 12. Surv. off.

444. REPORT, 1902-30. 1 vol.

Daily record by surveyor of work done on county projects, showing name, location, and nature of project; dates worked on project; and nature and amount of work completed and unfinished. Arr. chron. by date worked on project. No index. Hds. 200 pp. 14 x 9 x 1. Surv. off.

445. [ENCLOSURES], 1881-. 1 vol.

Record of expenditures for salaries and expenses, showing date, amount, nature, and amount of warrant and names of

fund and payee. Arr. chron. by date of warrant. Indexed alph. by name of payee. Hdw. 136 pp. 12 x 8 x 1 $\frac{1}{2}$. Surv. off.

446. PLATS AND DESCRIPTION OF GRAVEL ROAD, 1881-1912. 1 vol.

Contains:

i. Data on gravel roads constructed, showing dates of beginning and completion of construction; location, number, and name of road; length of construction; and specifications.

ii. Plat drawings of townships, showing name of township; boundary; Congressional township, section, and range lines; section, township, range, and road numbers; and location of roads.

Arr. numer. by road no. No index. Hdw. 150 pp. 21 x 17 x 1 $\frac{1}{2}$. Surv. off.

447. BRIDGE RECORD, 1927-29. 1 vol. (1).

Maps of townships and photostatic copies of plans and specifications of bridges, showing dates of plans and specifications; names of township, bridge, and contractor; locations of roads and bridges; bridge numbers; complete plans and specifications; and cost of each bridge. Arr. numer. by bridge no. No index. Hdw. and photostated. 116. pp. 18 x 13 x 2 $\frac{1}{2}$. Surv. off.

448. PLANS FOR BRIDGES, undated. 331 blueprints.

Blueprints of bridges proposed and constructed, showing location and number of bridge and complete plans. No obvious arr. No index. Blueprint. 14 x 20. 47 blueprints, attic strg. room; 234 blueprints, surv. off.

449. PLANS FOR ROADS, 1912-. 170 blueprints.

Blueprints of roads proposed and constructed, showing date of blueprint, name of township, name and location of road, and complete plans. Arr. by name of t. No index. Blueprint. 18 x 24. 114 blueprints, 1912-20, attic strg. room; 56 blueprints, 1921-, surv. off.

450. PLANS FOR DITCHES, undated. 254 blueprints.

Blueprints and specifications of ditches, showing names of ditch and engineer and complete specifications. No obvious arr. No index. Blueprints. Hdw. and typed. Size varies. 132 blueprints, attic strg. room; 122 blueprints, surv. off.

451. WELLS COUNTY ROADS, 1924. 4 blueprints.

Blueprints of roads, showing date of blueprint; county and township boundary lines; and location, type, and name or number of road. Drawn by J. T. Redding, Fort Wayne, Ind. Blueprint. Scale: 1 $\frac{1}{2}$ to 1 mi. 36 x 42. Surv. off.

452. BLUFFTON STREETS, undated. 45 blueprints.

Blueprint plans for improvement of streets in Bluffton, showing

name of street and complete plans. No obvious arr. No index. Blueprints. 14 x 30. Surv. off.

MAPS

453. BLUFFTON SANITARY SEWER SYSTEM, 1935. 12 maps. Map of Bluffton, showing date of map; city boundary lines; original plat and additions; location and size of public grounds and lots; lot numbers; location and names of streets; location of alleys, sewers, and intakes and outlets of sewers. Drawn by James T Redding, Ft. Wayne, Ind. No scale given. 34 x 42. Surv. off.

454. ROAD SYSTEM, WELLS AND ADJOINING COUNTIES, 1928. 1 map.

Road map of Wells, Adams, Allen, Jay, Grant, and Blackford Counties, showing date of map, county boundary lines, location of roads, and type of construction. Drawn by James T. Redding, Fort Wayne, Ind. Black and white. Scale: 3' to 1 mile. 36 x 48. Surv. off.

455. WELLS COUNTY, 1930. 2 maps.

Communication map, showing date of map; county and township boundary lines; Congressional township, section and range lines; section, township, and range numbers; plat drawings of lands outside of cities and towns; name of owner; acreage of each tract; names and locations of cities, towns, villages, railroads and streams; and locations of highways. Drawn by J. T. Redding. Black and white. Scale: 2' to 1 mile. 48 x 60. Surv. off.

456. HUNTINGTON COUNTY, 1921. 1 map.

Land ownership and communication map of Huntington County, Indiana, showing date of map; county and township boundary lines; Congressional township, section, and range lines; section, township, and range numbers; plats of lands outside of cities and towns; name of owner; acreage of each tract; names and locations of cities, towns, and villages; and locations of highways, railroads, and streams. No author given. Published by Ford Map Company, Indianapolis, Ind. Ptd. scale: 2' to 1 mile. 60 x 40. Surv. off.

457. OSSIEN, 1917. 1 map.

Communication map of Ossian, Ind., showing date of map; city boundary lines; original plat and additions; location and size of public grounds and lots; lot numbers; and locations of streets, alleys, and public buildings. Drawn by D. O. North. Blueprint. Scale: 1' to 100". 32 x 45. Surv. off.

XLII. COUNTY HIGHWAY SUPERVISOR

LEGAL STATUS

The office of county highway supervisor has existed in Wells County ever since 1933 under the requirements of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. A person other than the surveyor now holds this office in Wells County. The law provides that the highway supervisor shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). When he furnishes his own conveyance he receives 5 cents for each mile necessarily traveled by him in the discharge of his official duties.¹

The highway supervisor must be an elector of the county at the time of his appointment; must have been an inhabitant thereof throughout the preceding year;² must reside within the county after his appointment; must not hold any other "lucrative office";³ and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.⁴

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.⁵ The board provides all tools and equipment necessary for the maintenance of roads.⁶

¹ Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8708, 7540. Op. Atty. Gen. 1935, p. 205.

² Const. 1851, art. 6, sec. 4.

A county highway supervisor other than the surveyor is not required to be a qualified registered professional engineer. Op. Atty. Gen. 1939, p. 269.

³ Const. 1851, art. 2, sec. 9, art. 6, sec. 6.

Serving as surveyor and also as highway supervisor is not prohibited by the constitution. State ex rel. Bateman v. Hart 181 Ind. 592, 105 N. E. 149 (1914).

⁴ Const. 1851, art. 15, sec. 4. Rev. Stat. 1838, ch. 91, sec. 27. Rev. Stat. 1843, ch. 16, sec. 80. Acts 1935; Burns 10-3708; Baldwin 2360. 1 Rev. Stat. 1852, Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁵ Acts 1933; Burns 36-1107; Baldwin 8705.

⁶ Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

Before 1879 the board doing county business had general supervision of the maintenance of county roads, with the aid of district road supervisors, the township trustees, and township supervisors of roads.⁷ From 1879 to 1913 the board of commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 until 1901 and as "Board of Directors" from 1901 to 1913). The board divided the county into three districts, and each director had personal direction of one of such districts with the assistance of a supervisor appointed by him.⁸ In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of the maintenance of all road, bridges, and culverts in the county.⁹ In 1933 this office was abolished¹⁰ and the office of county highway supervisor was created.¹¹

FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;¹² divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;¹³ fixes maximum limits of loads for roads, bridges, and culverts; must not spend more than \$50 for the repair of a bridge or culvert without the approval of the board of commissioners;¹⁴ cuts noxious weeds and trims hedges along the roads when the landowners fail to do so;¹⁵ buries or

⁷ Acts 1816-17, ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. L. 1824, ch. 87. Rev. L. 1831, ch. 20, sec. 22; ch. 82, sec. 47. Rev. Stat. 1838, ch. 21, sec. 20; ch. 91. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 66-68; ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 102, secs. 1, 4. Acts 1859, ch. 127, sec. 1.

⁸ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1885, ch. 147. Acts 1899, ch. 176, secs. 1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 65. Acts 1913, ch. 330, sec. 1. Acts 1932 (Spec. Sess.); Burns 36-901; Baldwin 8711.

⁹ Acts 1913, ch. 330, secs. 1, 2. Acts 1921, ch. 95. State ex rel. Bateman v. Hart, 181 Ind. 592, 105 N. E. 119 (1914).

¹⁰ Acts 1933; Burns 36-1112; no Baldwin.

¹¹ Acts 1933; Burns 36-1110; Baldwin 8708.

¹² Acts 1859, ch. 175. Acts 1913, ch. 330, sec. 2. Acts 1933, Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹³ Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

¹⁴ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁵ Acts 1859, ch. 15, sec. 1. Acts 1885 (Spec. Sess.), ch. 24. Acts 1829, Burns 15-905

cremates carcasses found on highways or nearby lands when the owners fail to do so;¹⁶ establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;¹⁷ and attends meetings of the board of commissioner,¹⁸ and sessions of the annual road school at Purdue University.¹⁹

The records of the county highway supervisor are maps of the highway system made by him,²⁰ reports of work in progress,²¹ monthly reports to the board of commissioner of all work done, and annual reports of his work, with complete statements of all expenditures under his supervision.²²

All of the records of the highway supervisor are in his office except as otherwise indicated in the entries.

458. LEDGER, 1914-28, 1933-. 9 vols. (1-3; 6 vols. unlabeled). Title varies: Superintendent's Highway Record, 1914-28, 3 vols.

Ledger of appropriations and disbursements, showing account number, names of fund and payee, dates and amounts of appropriations and disbursements, and amount of overdraft or balance. Arr. by name of fund and chron. thereunder by date of disbursement. No index, 1914-28, 1937-; indexed alph. by name of fund, 1933-36. 4 vols., 1914-28, 1939, comr. room; 5 vols., 1934-, hwy. sup. off.

459. DAILY REPORTS, 1934-. 1 bdl., 1 f. d.

Daily reports by drivers of county highway trucks and tractors, showing date of report, name of driver, truck or tractor number, place and number of hours worked, amount and kind of materials handled, mileage, and itemized account of gas

Baldwin 270; Acts 159; Burns 20 30; Baldwin 7648, Acts 1915; Burns 36-1805; Baldwin 8618. Acts 1929; Burns 1041 suppl. 6-714, Baldwin, 1929 suppl. 8619-1.

¹⁶ Acts 1907, Burns 16 814, 16 816, Baldwin 3869, 3, 01

¹⁷ Acts 193, Burns 16-1103, 36 1104, Baldwin 8701, 8708.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. *Baten v. State*, 214 Ind 118, 14 N E (2d) 1007 (1935)

¹⁸ Acts 193, Burns 16 1103, 36-1104, 16 111, Baldwin 8701, 8702, 8708.

¹⁹ Acts 1903; Burns 16 1110, Baldwin 8708.

²⁰ Acts 190, Burns 16 1109, 16 1110, Baldwin 8707, 8708.

²¹ Acts 190, Burns 16-1106, 16 1110, Baldwin 8701, 8708.

²² Acts 190, Burns 16-1104, 16 1110, Baldwin 8702, 8708.

and oil used. Arr. chron. by date of report. No index. F. d. 12 x 11 x 17; bdl. 11 x 14 x 10. 1 bdl., 1934-June. 1937 comr. room; 1 f. d., July 1937-, hwy. sup. off.

460. [PAYROLL], Mar. 7, 1938-. 8 f. b.

Monthly payroll sheets of county highway employees, showing date of payroll, name of employee, dates and hours worked, hourly wage rate, amount of salary earned, and certification by employee and auditor. Arr. chron. by date of payroll. No index. Hdw. 11 x 4 x 14. 7 f. b., 1938-39, aud. off.; 1 f. b., 1940-, hwy. sup. off.

461. [PURCHASE ORDERS], 1935-. 50 vols.

Duplicates of emergency purchase orders issued by highway supervisors for supplies and materials, showing date, number, and nature of order; names and addresses of consignor and consignee; and quantity, description, unit price, and total amount of order. Arr. numer. by order no. No index. Hdw. 7 x 6 x 1. 35 vols., 1935-Nov. 23, 1938, comr. room; 15 vols., Nov. 24, 1938-, hwy. sup. off.

462. [WEIGHT TICKETS], 1931-. 40 f. b.

Weight tickets for material used on county highways, showing date of ticket; name of driver; kind of material; and gross, tare, and net weights. Arr. chron. by date of ticket. No index. Hdw. 38 f. b., 1931-39, comr. room; 2 f. b., 1840-, hwy. sup. off.

XLIII. COUNTY AGRICULTURAL AGENT

LEGAL STATUS

The office of county agricultural agent has existed in Wells County ever since 1914 under a permissive act of 1913 and a mandatory act of 1937. The county agricultural agent is appointed for a 1-year term by the director of the agricultural extension service of Purdue University, with the approval of the County Agricultural Agent Board (a State Board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms, subject to the approval of the State Board of Education and county board of education. The county council is required to appropriate not less than

\$1,000 annually for the expenses of this office. The act of 1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain State fund provided for in that act), and that the County Agricultural Agent Board must "make a distribution of State funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county".¹

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the State had organized an agricultural society. The principal activity of the agricultural society was the operation of county fairs with exhibits, racing, and amusements.² Legislative action of 1865 providing for the Indiana Agricultural College (now Purdue University) was the actual beginning of agricultural education in Indiana. An act of 1889 made it the duty of the college to conduct institutes among farmers and made an appropriation therefor. This act provided for the appointment of suitable persons to conduct institutes in the various counties.³ An act of 1907, which was repealed in 1911, required the payment of not more than \$100 annually by the county to promote agricultural extension activities.⁴ Under a mandatory law of 1911 the board of commissioners must authorize the payment

¹ Acts 1913, ch. 24, sec. 12. Acts 1933, 1923, 1927, 1937; Burns, 1941 suppl., 28-4911; Baldwin, 1937 suppl., 6437. Op. Atty. Gen. 1937, pp. 114, 561. Information obtained from H. J. Reed, director of the Department of Agricultural Extension, Purdue University, on February 21, 1941, by Julian Jacobsen.

The appropriation act of 1941 appropriated \$184,000 per year for operating expenses of the county Agricultural Agent Board from July 1, 1911 through June 30, 1943. Acts 1941, ch. 231, sec. 2.

Under the law in force in 1931 the State's contribution was not available in absence of appropriation by the county council. Op. Atty. Gen. 1931, p. 876.

The county could accept funds from the local farm bureau for the expenses of the office of county agricultural agent. *Ibid*

² Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture*, pp. 271-275.

³ Acts 1889, ch. 134, sec. 1. Acts 1865; Burns 28 5601, Baldwin 6506.

⁴ Acts 1907, ch. 117, secs. 1, 2. Acts 1911, ch. 54, sec. 6.

of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute. Such expenditures may not exceed 25 cents per square mile the area of the county. The county council and board of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society, if there is no agricultural fair or association in active operation in the county.⁵

FUNCTIONS AND RECORDS

The county agricultural agent assists the farmers in obtaining greater efficiency, marketing by grade, using better sires, producing more legumes, preventing soil erosion, intelligently studying land use, improving pasture, using higher yielding varieties and adapted strain of seeds, culling flocks and herds, destroying insects and noxious weeds, and practicing careful organization in the farm business. The betterment of the rural home is his ultimate objective.⁶

Under the supervision of Purdue University, he conducts institutes, schools, and demonstrations to aid the farmers in the solution of these problems. He cooperates with farmers' clubs and other rural and civic organizations; assists boys' and girls' clubs and contest work; encourages other movements for the advancement of agricultural and country life; gives advice on practical farm problems; and aids the schools of the county in giving practical education in agriculture and domestic science.⁸

The county agricultural agent is an ex officio State entomologist but is called upon to function in such capacity only in case of emergency.⁹

The records of the agricultural agent consist of reports to Purdue University concerning his activities, compiled under the direction of the university.

All records of the county agricultural agent are in his office.

⁵ Acts 1911, Burns, 1962; Baldwin 1910. Op. Att. Gen. 1914, p. 25.

⁶ Acts 1917, 1918 Burns 1914, 1919, 1924.

⁷ *Engineering, Surveying and Planning Commission, Department of Agricultural Extension, 1924-37, p. 10*

⁸ *1914, p. 27-30. Acts 1911, 1912, 1913, 1914, Burns, 1914 suppl., 25-27-1; Baldwin, 1917 suppl., 6127.*

⁹ Acts 1917, Burns 1917, p. 100; 1921. Information obtained from Frank N. Wallace, State Entomologist, on January 26, 1921, by W. John G. Chubbuck.

463. ANNUAL NARRATIVE REPORT, 1921- 18 vols.

Copies of Agricultural Agents' reports to Purdue University Agricultural Extension Service consisting of:

- i. Annual narrative report, showing dates of report and period covered; names of agent, vocational teachers, and club leaders; total membership; scope of projects; and detailed account of activities and results obtained.
- ii. Combined annual report of county agricultural agent and home demonstration agent of extension work, showing dates of report and period covered; names of agricultural agent, home demonstration agent, and members of extension committee; detailed account of office, field and program activities; number of farmers adopting program recommendations, their activities and accomplishments; number of 4-H Club members and their club activities; and record of work done in connection with Federal agencies.
- iii. Report and summary of accomplishments and state of extension organization, showing dates of report and period covered; programs; general improvements in farm crops, horticulture, livestock, poultry, and farm management; and agricultural adjustments and engineering.

Arr. chron. by date of report. No index. Hdw. and typed 60 pp. 12 x 9 x 1/2. Agr. agt. off.

464. [REPORTS], 1 f. d.

Contains:

- i. Copies of monthly reports by agricultural agent to Purdue University Agricultural Extension Service, of activities, showing date of report, schedule of meetings planned, and statistical summary of all activities.
- ii. Copies of reports by agricultural agent to Purdue University Agricultural Extension Service of 4-H Club activities, showing date of report, number of club leaders and members enrolled, nature of programs and contests, and list of prizes awarded.

Arr. chron. by date of report. No index. Hdw. 11 x 13 x 26. Agr. agt. off.

465. [TUBERCULAR TESTS OF CATTLE], 1927-. 2 f. d. and 1 f. b.

Reports by veterinarians of Bangs disease and tuberculin tests of cattle, showing dates of report and test, name and address

of owner, name of veterinarian, number and breed of cattle tested, and result of test. Arr. by name of t. and alph. thereunder by name of owner. No index. Hdw. and typed. F. d. 6 x 8 x 15; 1 f. b. 11 x 5 x 14. 2 f. d., 1927-38. agr. agt. off., 1 f. b., 1939-, aud. off.

XLIV. COMMISSION OF PUBLIC RECORDS

EVOLUTION AND STRUCTURAL ORGANIZATION

The commission of public records of Wells County exists under the mandatory provisions of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and another member (selected by the commission) serves as chairman.¹

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;⁴ and an amendatory act of 1937 added a provision that the director of the State Library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the State archives.⁵ An act of 1935 created within the executive department of the State a "Commission on Public Records," consisting of the Governor, the Secretary of State, the State Examiner, the director of the State Library, and the director of the Historical Bureau. This act is almost identical with the act

¹ Acts 1939; Burns, 1941 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

² Acts 1929; Burns, 1941 suppl., 49-3701; Baldwin, 1929 suppl., 5492-1.

³ Acts 1877; Burns 26-634; Baldwin 5339.

⁴ Acts 1925; Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1941 suppl., 63-830; Baldwin, 1937 suppl., 10287.

of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the past and present attitudes of the General Assembly toward the preservation of public records.

FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: (a) Those having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.⁷

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires that they be kept beyond that period.⁸ Records of class (b) are to be "retained in the office where they are required to be filed."⁹

Records of classes (c) and (d) must be transferred to the State Library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In the event of such transfer, the records of class (c) will be added to the "archives" of the Library, while those of class (d) will constitute a part of the "collection" of that institution.¹⁰

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹¹

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹²

⁶ Acts 1925, Burns, 141 suppl., 63 1301 to 63 1303; Baldwin, 1925 suppl., 1340 to 1340 10. Op. Att. Gen. 1926, p. 29.

⁷ Acts 1928, Burns, 141 suppl., 1 272; Baldwin, 1929 suppl., 5492-2.

⁸ Acts 1929, Burns, 141 suppl., 4 1300, 4 1304; Baldwin, 1929 suppl., 5492-3, 5492-4.

⁹ Acts 1928, Burns, 141 suppl., 1 270; Baldwin, 1929 suppl., 5492-2.

¹⁰ Acts 1928, Burns, 141 suppl., 4 1301 to 4 1303; Baldwin, 1929 suppl., 5492-4 to 5492-6.

¹¹ Acts 1928, Burns, 141 suppl., 4 1300; Baldwin, 1929 suppl., 5492-7.

¹² Acts 1928, Burns, 141 suppl., 4 1300; Baldwin, 1929 suppl., 5492-8.

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.^{1,2}

No records of the commission of public records were found in this county.

XLV. COUNTY POUNDKEEPER (1837-53)

LEGAL STATUS

From 1837 until 1853 Wells County had a poundkeeper, who was annually appointed by the board of commissioners and served until his successor was chosen and qualified.²

FUNCTIONS AND RECORDS

The county poundkeeper had charge of the county pound erected at or near the county courthouse with fence, gate, lock, and key, where estray animals were confined. He kept the pound in repair and attended it at such time as estrays were directed to continue therein.³ Estrayed animals taken up by residents of the county were delivered to the pound, where they were held subject to reclaiming by their owners or order of sale made by the court.⁴ On the failure of the poundkeeper to discharge his duties properly, he was subject to a forfeiture of the sum of \$8 to the person injured.⁵

In 1853 the General Assembly abolished this office and provided that all estrays be thereafter kept in the custody of the taker-up until they were reclaimed by their owner or sold at public sale.⁶

^{1,2} Acts 1909; Burns, 1941 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.

³ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49. ¹ Rev. Stat. 1852, ch. 4; ch. 92.

Wells Organization Acts. Acts 1834-35 (general), ch. 25, sec. 2. Acts 1836-37 (general), ch. 6, sec. 1.

² Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49.

³ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 20.

⁴ Rev. Stat. 1838, ch. 37, sec. 9. Rev. Stat. 1843, ch. 21, sec. 4.

⁵ Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 7, sec. 20.

⁶ ¹ Rev. Stat. 1852, ch. 4; ch. 92.

PUBLICATIONS OF THE INDIANA HISTORICAL RECORDS SURVEY

INVENTORY OF THE COUNTY ARCHIVES OF INDIANA

The following volumes of this series have been issued by The Indiana Historical Records Survey:

- NO. 2. ALLEN COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1939. 379 p.)
- NO. 6. BOONE COUNTY
(Indianapolis, Indiana Historical Bureau, 1937. 143 p.)
- NO. 11. CLAY COUNTY
(Indianapolis, The Historical Records Survey, 1939. 404 p.)
- NO. 18. DELAWARE COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940. 386 p.)
- NO. 28. GREENE COUNTY
(Indianapolis, The Historical Records Survey, 1939. 204 p.)
- NO. 34. HOWARD COUNTY
(Kokomo, published by Howard County, Indiana, 1939. 152 p.)
- NO. 33. JAY COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1941. 399 p.)
- NO. 46. LA PORTE COUNTY
(Indianapolis, Indiana Historical Bureau, 1939. 189 p.)
- NO. 49. MARION COUNTY
(Indianapolis, Indiana Historical Bureau, 1938. 219 p.)
- NO. 53. MONROE COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940. 433 p.)
- NO. 55. MORGAN COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1941. 436 p.)
- NO. 65. POSEY COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940. 378 p.)
- NO. 71. ST JOSEPH COUNTY
(Indianapolis, Indiana Historical Bureau, 1939. 248 p.)
- NO. 73. SHELBY COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940. 415 p.)
- NO. 79. TIPPECANOE COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1941. 516 p.)
- NO. 80. TIPTON COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1941. 404 p.)
- NO. 82. VANDERBURGH COUNTY
(Indianapolis, The Historical Records Survey, 1939. 268 p.)
- NO. 87. WARRICK COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1940. 378 p.)
- NO. 90. WELLS COUNTY
(Indianapolis, The Indiana Historical Records Survey, 1941. 431 p.)

PUBLICATIONS OF THE INDIANA HISTORICAL RECORDS SURVEY

A DIRECTORY OF CHURCHES AND RELIGIOUS ORGANIZATIONS

The following volumes of this series have been published:

- Vol. I. MARION COUNTY (Indianapolis) 1940
(Indianapolis, The Indiana Historical Records Survey, 1940. 119 p.)
- Vol. II. CALUMET REGION (Lake, Porter, and La Porte Counties) 1941
(Indianapolis, The Indiana Historical Records Survey, 1941. 102 p.)
- Vol. III. NORTHERN INDIANA, Part I (Adventist Bodies - Mennonite Bodies) 1941
(Indianapolis, The Indiana Historical Records Survey, 1941. 239 p.) Part 2
(Methodist Bodies - Young Women's Christian Association) 1941 (Indianapolis,
The Indiana Historical Records Survey, 1941. 238 p.)

VITAL STATISTICS GUIDE

GUIDE TO PUBLIC VITAL STATISTICS RECORDS IN INDIANA

(Indianapolis, The Indiana Historical Records Survey, 1941. 265 p.)

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